



Plenary sitting

A9-0149/2023

14.4.2023

*****I**

REPORT

on the proposal for a regulation of the European Parliament and of the Council introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817
(COM(2020)0612 – C9-0307/2020 – 2020/0278(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Birgit Sippel

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act**Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817 (COM(2020)0612 – C9-0307/2020 – 2020/0278(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2020)0612),
 - having regard to Article 294(2) and Article 77(2) points (b) and (d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C9-0307/2020),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Hungarian Parliament and the Italian Senate asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0149/2023),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Recital 1

Text proposed by the Commission

Amendment

(1) The Schengen area was created to

(1) The Schengen area was created to

achieve *the Union's objective of establishing* an area without internal frontiers in which the free movement of persons is ensured, as set out in Article 3(2) of the Treaty on European Union (TEU). The good functioning of this area relies on mutual trust between the Member States and efficient management of the external border.

Amendment 2

Proposal for a regulation Recital 2

Text proposed by the Commission

(2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)²¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals ***manage to avoid border checks at*** the external borders, ***or*** where third-country nationals are disembarked following search and rescue operations ***as well as*** where third-country nationals request international protection at a border crossing point without fulfilling entry conditions. The present regulation complements and ***specifies*** Regulation (EU) 2016/399 with regard to those three sets of situations.

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the rules

achieve an area without internal frontiers in which the free movement of persons is ensured, as set out in Article 3(2) of the Treaty on European Union (TEU). The good functioning of this area relies on mutual trust between the Member States and efficient management of the external border.

Amendment

(2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)²¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals ***are apprehended in connection with an irregular crossing of*** the external borders, where third-country nationals are disembarked following search and rescue operations ***and*** where third-country nationals request international protection at a border crossing point without fulfilling entry conditions. This Regulation complements and ***clarifies*** Regulation (EU) 2016/399 ***[Schengen Borders Code]*** with regard to those three sets of situations.

²¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the rules

governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p.1.

governing the movement of persons across borders (Schengen Borders Code) (OJ L 77, 23.3.2016, p.1).

Amendment 3

Proposal for a regulation Recital 3

Text proposed by the Commission

(3) It is essential to ensure that in those three sets of situations, the **third country** nationals are screened, in order to facilitate a proper identification and to **allow for them being referred efficiently** to the **relevant procedures** which, depending on the circumstances, **can be procedures** for international protection **or** procedures respecting Directive 2008/115/EC of the European Parliament and of the Council (the “Return Directive”)²². The screening should seamlessly complement the checks carried out at the external border **or compensate for the fact that those checks have been circumvented by the third country nationals when crossing the external border**.

Amendment

(3) It is essential to ensure that where third-country nationals are apprehended in connection with an irregular crossing of the external borders, where third-country nationals are disembarked following search and rescue operations and where third-country nationals request international protection at a border crossing point without fulfilling entry conditions, such **third-country** nationals are screened, in order to facilitate a proper identification and to **enable an efficient referral** to the **correct procedure**, which, depending on the circumstances, **might be the procedure** for international protection **as laid down in Regulation (EU) XXXX/202X of the European Parliament and of the Council [Asylum Procedures Regulation] or the procedure** respecting Directive 2008/115/EC of the European Parliament and of the Council²² (the “Return Directive”) **without prejudice to Member States’ discretion in accordance with Article 6(5) of Regulation (EU) 2016/399 [Schengen Borders Code]. Persons identified as stateless persons or at risk of becoming stateless persons during the screening should be referred to the competent authorities which should determine whether the individual is a stateless person and offer adequate protection, in accordance with national law**. The screening should seamlessly complement the checks carried out at the external border. **Where applicable, the checks carried out in the context of the screening may also form part of the**

checks to be performed in the context of subsequent procedures.

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

²² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, (OJ L 348, 24.12.2008, p. 98).

Amendment 4

Proposal for a regulation Recital 4

Text proposed by the Commission

(4) Border control is in the interest ***not only*** of the Member States at whose external borders it is carried out but of all Member States ***which have abolished internal border control***. Border control should help ***to combat illegal*** migration ***and*** trafficking of human beings and ***to*** prevent any threat to the Member States' internal security, public ***policy, public*** health and international relations. As such, measures taken at the external borders are important elements of a comprehensive approach to migration, ***allowing to address the challenge of mixed flows of migrants and persons seeking international protection***.

Amendment

(4) Border control is ***not only*** in the interest of the Member States at whose external borders it is carried out but of all Member States. Border control should help ***reduce irregular*** migration, ***protect victims of*** trafficking of human beings and prevent any threat to the Member States' internal security, public health and international relations. ***At the same time, when carrying out border control, Member States should act in compliance with relevant Union and international law, including the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 ("the Geneva Convention"), obligations related to international protection, in particular the principle of non-refoulement, and fundamental rights.*** As such, measures taken at the external borders are important elements of a comprehensive approach to ***asylum and*** migration.

Amendment 5

Proposal for a regulation Recital 4 a (new)

(4a) As part of a comprehensive approach to migration and border management and in accordance with Article 80 TFEU, Union law should contain appropriate measures to give effect to the principle of solidarity and fair sharing of responsibility.

Amendment 6

Proposal for a regulation Recital 5

Text proposed by the Commission

(5) In accordance with Article 2 of Regulation (EU) 2016/399, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points, ***in order to prevent third-country nationals from circumventing border checks***. In accordance with Article 13 of Regulation (EU) 2016/399 a person who has crossed a border in an ***unauthorised*** manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. ***In accordance with*** Article 3 of Regulation (EU) 2016/399, border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Amendment

(5) In accordance with Article 2 of Regulation (EU) 2016/399 ***[Schengen Borders Code]***, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points. In accordance with Article 13 of Regulation (EU) 2016/399 ***[Schengen Borders Code]*** a person who has crossed a border in an ***irregular*** manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. ***However,*** Article 3 of Regulation (EU) 2016/399 ***[Schengen Borders Code]*** ***clarifies that*** border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.

Amendment 7

Proposal for a regulation Recital 6

Text proposed by the Commission

(6) Border guards are often **confronted** with third-country nationals who are requesting international protection **without travel documents**, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, at some border sections the border guards **are confronted** with large numbers of arrivals at the same time. In such circumstances, it is particularly **difficult** to ensure that **all** relevant databases are consulted and to **immediately** determine the appropriate **asylum or return** procedure.

Amendment

(6) Border guards are often **faced** with third-country nationals **who have no travel or identification documents and** who are requesting international protection, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, it is possible that at some border sections the border guards **are faced** with large numbers of arrivals at the same time. In such circumstances, it is particularly **important** to ensure that relevant databases are consulted and to determine the appropriate procedure **as quickly as possible**.

Amendment 8

Proposal for a regulation
Recital 7

Text proposed by the Commission

(7) In order to ensure **a** swift handling of third-country nationals who **try to avoid** border checks or who request international protection at a border crossing point without fulfilling the entry conditions or who are disembarked following a search and rescue operation, it is necessary to provide a stronger framework for cooperation between the different national authorities responsible for border control, the protection of public health, the examination of the need for international protection and the application of return procedures.

Amendment

(7) In order to ensure **an improved and** swift handling of third-country nationals who **have not been subject to** border checks or who request international protection at a border crossing point without fulfilling the entry conditions or who are disembarked following a search and rescue operation, it is necessary to provide a stronger framework for cooperation between the different national authorities responsible for border control, the protection of public health, **child protection**, the examination of the need for international protection and the application of return procedures.

Amendment 9

Proposal for a regulation
Recital 8

Text proposed by the Commission

(8) In particular, the screening should help to ensure that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay. At the same time, the screening ***should help to counter the practice whereby some applicants for international protection abscond after having been authorised to enter the territory of a Member State based on their request for international protection, in order to pursue such requests in another Member State or not at all.***

Amendment

(8) In particular, the screening should help to ensure that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay. At the same time, the screening ***could help discourage secondary movements in the Schengen area.***

Amendment 10

**Proposal for a regulation
Recital 9**

Text proposed by the Commission

(9) With regard to those persons who apply for international protection, the screening should ***be followed by an examination of the need for international protection. It should allow*** to collect and share with the authorities ***competent for that examination*** any information that is relevant ***for the latter to identify the appropriate procedure for the examination of the application, thus speeding up that examination.*** The screening should also ***ensure that*** persons with special needs ***are identified*** at an early stage, so that any special reception ***and*** procedural needs are fully taken into account in the determination of and the pursuit of the applicable procedure.

Amendment

(9) With regard to those persons who apply for international protection, ***and without prejudice to Regulation (EU) No XX/XXX [Asylum and Migration Management Regulation],*** the screening should ***enable the screening authorities*** to collect and share any relevant information with the ***competent*** authorities ***for examining an application for international protection without assessing the value of that information.*** The screening should also ***contribute to identifying vulnerable persons and*** persons with special needs at an early stage, so that any ***medical,*** special reception ***or*** procedural needs are fully taken into account in the determination of and the pursuit of the applicable procedure.

Amendment 11

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) The obligations stemming from this Regulation should be without prejudice to the provisions concerning responsibility for examining an application for international protection regulated in Regulation (EU) No XX/XXX [Asylum and Migration Management Regulation].

Amendment

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Amendment 12

Proposal for a regulation
Recital 11

Text proposed by the Commission

(11) This Regulation should apply to third-country nationals and stateless persons who are apprehended in connection with *the unauthorised crossings* of the external border of a Member State by land, sea or air, except *third country nationals* for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of *the Eurodac Regulation* for reasons other than their age, as well as to *persons* who have been disembarked following search and rescue operations, *regardless of whether they apply or not for international protection. This Regulation should also apply* to those *who seek* international protection at the border crossing points or in transit zones without fulfilling the entry conditions

Amendment

(11) This Regulation should apply to third-country nationals and stateless persons who are apprehended in connection with *an irregular crossing* of the external border of a Member State by land, sea or air, except *those* for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) xxxx/202x [Eurodac Regulation] for reasons other than their age, as well as to *those third-country nationals* who have been disembarked following search and rescue operations *and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399 [Schengen Borders Code]* and to those *third-country nationals who apply for* international protection at the border crossing points or in transit zones without fulfilling the entry conditions *set out in Article 6 of Regulation (EU) 2016/399 [Schengen Borders Code]*.

Amendment 13

Proposal for a regulation Recital 12

Text proposed by the Commission

(12) The screening ***should*** be conducted at or in proximity to the external border, ***before the persons concerned are authorised to enter the territory. The Member States should apply measures pursuant to national law to prevent the persons concerned from entering the territory during the screening. In individual cases, where required, this may include detention, subject to the national law regulating that matter.***

Amendment

(12) The screening ***may*** be conducted ***at any appropriate and adequate location within the territory of a Member State. Member States should designate any location used for the screening, which may be located*** at or in proximity to the external border ***taking into account geography and existing infrastructures.***

Amendment 14

Proposal for a regulation Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) In individual cases, where required, the screening may include detention, subject to the relevant Union and national law regulating that matter, in particular Directive (EU) xxxx/xxxx [Reception Conditions Directive]. The provisions regarding detention set out in that directive should apply mutatis mutandis to all persons subject to the screening.

Amendment 15

Proposal for a regulation Recital 13

Text proposed by the Commission

(13) Wherever it becomes clear during the screening ***that*** a third-country national

Amendment

(13) Wherever it becomes clear during the screening ***of*** a third-country national

subject to it fulfils the conditions of Article 6 of Regulation (EU) 2016/399, the screening should end and ***the third-country national*** concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that ***regulation***.

that such third-country national fulfils the conditions of Article 6 of Regulation (EU) 2016/399 [***Schengen Borders Code***], the screening should end and, ***if it is not already the case, the person*** concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that ***Regulation***.

Amendment 16

Proposal for a regulation Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) Persons applying for international protection to whom Member States may not apply or may no longer apply a border procedure in accordance with Article 41(3a) of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], should be authorised to enter the territory.

Amendment 17

Proposal for a regulation Recital 15

Text proposed by the Commission

Amendment

(15) All persons subject to the screening should be submitted to checks in order to establish their identity and to ***ascertain that they do not*** pose a threat to internal security or public health. In the case of persons requesting international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.

(15) All persons subject to the screening should be submitted to checks in order to ***verify or*** establish their identity and to ***verify whether they might*** pose a threat to internal security or public health. In the case of persons requesting international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.

Amendment 18

Proposal for a regulation
Recital 16

Text proposed by the Commission

(16) On completion of the screening, the third-country nationals concerned should be referred to the **relevant** procedure to establish responsibility for examining an application for and to assess the need for international protection, or be made subject to procedures respecting Directive **2008/115** (return directive), **as appropriate. The relevant information obtained during** the screening should be provided to the competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive **2008/115** should start applying only after the screening has ended. **Article 26 and 27 of the Asylum Procedures Regulation should apply only after the screening has ended. This should be without prejudice to the fact that the persons** applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be considered applicants.

Amendment 19

Proposal for a regulation
Recital 17

Text proposed by the Commission

(17) **The screening could also be followed by relocation** under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] **where a Member**

Amendment

(16) On completion of the screening, the third-country nationals concerned should be **either** referred to the procedure to establish responsibility for examining an application for and to assess the need for international protection, or be made subject to procedures respecting Directive **2008/115/EC [Return Directive] without prejudice to Article 6(5) of Regulation (EU) 2016/399 [Schengen Borders Code]**. The screening **form containing the collected information** should be provided to the competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive **2008/115/EC** should start applying only after the screening has ended. **Persons expressing a wish to apply or** applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be considered applicants **for international protection from the moment they express their wish to apply for international protection and Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation] and Directive (EU) xxxx/xxxx [Reception Conditions Directive] should apply to them.**

Amendment

(17) Under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] or under the mechanism addressing situations of crisis established by Regulation (EU)

State is contributing to solidarity on a voluntary basis or the applicants for international protection are not subject to the border procedure pursuant to Regulation (EU) No. XXX/XXX (Asylum Procedures Regulation), or under the mechanism addressing situations of crisis established by Regulation (EU) XXX/XXX [Regulation on situations of crisis].

XXX/XXX [Crisis Regulation], Member States are encouraged to relocate applicants for international protection swiftly and without undue delay after the screening.

Amendment 20

Proposal for a regulation Recital 18

Text proposed by the Commission

Amendment

(18) In accordance with Article 12 of Regulation (EU) 2016/399, the fulfilment of entry conditions and the authorisation of entry are expressed in an entry stamp in a travel document. The absence of such entry stamp or the absence of a travel document may therefore be considered as an indication that the holder does not fulfil the entry conditions. With the start of the operation of the Entry/Exit System leading to substitution of the stamps with an entry in the electronic system, that presumption will become more reliable. Member States should therefore apply the screening to third-country nationals who are already within the territory and who are unable to prove that they fulfilled the conditions of entry into the territory of the Member States. The screening of such third-country nationals is necessary in order to compensate for the fact that they presumably managed to evade entry checks upon arrival in the Schengen area and therefore could have not been either refused entry or referred to the appropriate procedure following screening. Applying the screening could also help in ascertaining, through the consultation of the databases referred to in this Regulation, that the persons concerned do not pose a threat to internal

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security. By the end of the screening within the territory, the third-country nationals concerned should be subject to a return procedure or, where they apply for international protection, to the appropriate asylum procedure. Submitting the same third-country national to repeated screenings should be avoided to the utmost extent possible.

Amendment 21

Proposal for a regulation Recital 19

Text proposed by the Commission

(19) The screening should be completed as soon as possible, and should not exceed **5 days where it is conducted at the external border and 3 days where it is conducted within the territory of a Member State. Any extension of the 5 days' time limit should be reserved for exceptional situations at the external borders, where the capacities of the Member State to handle screenings are exceeded for reasons beyond its control such as crisis situations referred to in Article 1 of Regulation XXX/XXX [crisis proposal].**

Amendment

(19) The screening should be completed as soon as possible, and should not exceed **five** days.

Amendment 22

Proposal for a regulation Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) In a situation of crisis in accordance with Regulation (EU) XXX/XXXX [Crisis Regulation] the screening should be carried out at the latest within ten days. Member States should still always carry out the screening without delay and as quickly as possible.

Amendment 23

Proposal for a regulation Recital 20

Text proposed by the Commission

Amendment

(20) The Member States should determine appropriate locations for the screening at or in proximity to the external border taking into account geography and existing infrastructures, ensuring that apprehended third-country nationals as well as those who present themselves at a border crossing point can be swiftly submitted to the screening. The tasks related to the screening may be carried out in hotspot areas as referred to in point (23) of Article 2 of Regulation (EU) 2019/1896 of the European Parliament and of the Council²³.

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²³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, OJ L 295, 14.11.2019, p. 1.

Amendment 24

Proposal for a regulation Recital 21

Text proposed by the Commission

Amendment

(21) In order to achieve the objectives of the screening, close cooperation should be ensured between the competent national authorities referred to in Article 16 of Regulation 2016/399, those referred to in Article 5 of the [Asylum Procedures Regulation] as well as those responsible for carrying out return procedures respecting Directive 2008/115. Child protection authorities should also be closely involved

(21) In order to achieve the objectives of the screening, close cooperation should be ensured between the competent national authorities referred to in Article 16 of Regulation (EU) 2016/399 [Schengen Borders Code], those referred to in Article 5 of Regulation (EU) xxxx/xxxx [Asylum Procedures Regulation] as well as those responsible for carrying out return procedures respecting Directive

in the screening wherever necessary to ensure that the best interests of the child are duly taken into account throughout the screening. Member States should be allowed to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the [European Union Agency for Asylum], within the limits of their mandates. Member States should involve the national Rapporteurs for Anti-trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council²⁴.

²⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1.

2008/115/EC. In that regard, it is important to avoid the duplication of obligations on Member States and applicants for international protection regarding the procedures in place, and the duplication of rules concerning reception conditions and grounds on which persons might be detained. Member States should be allowed ***and are encouraged*** to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the European Union Agency for Asylum, within the limits of their mandates. Member States should involve the national Rapporteurs for Anti-trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council²⁴.

²⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims (OJ L 101, 15.4.2011, p. 1).

Amendment 25

Proposal for a regulation Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) During the screening procedure, the best interests of the child should always be a primary consideration in accordance with Article 24(2) of the Charter of Fundamental Rights of the European Union (the ‘Charter’). Child protection authorities should, wherever necessary, be closely involved in the screening to ensure that the best interests of the child are duly taken into account throughout the screening. A representative should be appointed to represent and assist the unaccompanied minor during the screening. Where

applicable, this representative should be the same as the representative to be appointed in accordance with Article 23 of Directive (EU) XXX/XXX [Reception Conditions Directive].

Amendment 26

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) When **conducting the screening, the competent authorities** should comply with the Charter of Fundamental Rights of the European Union and ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, disability, age or sexual orientation. Particular attention should be paid to the best interests of the child.

Amendment

(22) When **applying this Regulation, the Member States** should comply with the Charter, **relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ('the Geneva Convention')**, and ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, disability, age or sexual orientation. Particular attention should be paid to the best interests of the child.

Amendment 27

Proposal for a regulation Recital 23

Text proposed by the Commission

(23) In order to ensure compliance with **EU** and international law, including the Charter of Fundamental Rights, during the screening, each Member State should establish a monitoring mechanism and put in place adequate safeguards for the independence **thereof. The monitoring mechanism should cover in particular** the respect for fundamental rights in relation to the screening, as well as the respect for the

Amendment

(23) In order to ensure compliance with **Union** and international law, including the Charter, during **border surveillance and the screening procedure**, each Member State should establish **or designate** a monitoring mechanism and put in place adequate safeguards for the independence **of that mechanism in accordance with the Paris Principles, the Venice Principles, the United Nations General Assembly**

applicable **national** rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399. ***The Fundamental Rights Agency should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States should furthermore be allowed to request the support of the Fundamental Rights Agency for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the Fundamental Rights Agency with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. Member States should also be allowed to invite relevant and competent national, international and non-governmental organisations and bodies to participate in the monitoring. The independent monitoring mechanism should be without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896. The Member States should investigate allegations of the breach of the fundamental rights during the screening, including by ensuring that complaints are dealt with expeditiously and in an appropriate way.***

Resolution of 28 December 2020 on the role of the Ombudsman, and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, in particular by involving national human rights institutions, national ombudspersons or international organisations in the management and operation of the mechanism. Member States may also involve relevant non-governmental organisations. The bodies responsible for the mechanism should establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor. The mechanism should monitor the respect for fundamental rights in relation to border surveillance and the screening procedure, as well as the respect for the applicable rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399 [Schengen Borders Code].

Amendment 28

Proposal for a regulation Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) The Fundamental Rights Agency (FRA) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanism. Member States

should furthermore be allowed to request the support of the FRA for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the FRA with regard to establishing the methodology for this monitoring mechanism and appropriate training measures.

Amendment 29

Proposal for a regulation Recital 23 b (new)

Text proposed by the Commission

Amendment

(23b) The independent monitoring mechanism should be in addition and without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896 of the European Parliament and of the Council^{1a}, the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (CEAS) as set out in Article 14 of Regulation (EU) 2021/2303 of the European Parliament and of the Council^{1b} [EU Asylum Agency Regulation], the Schengen Evaluation and Monitoring Mechanism provided for in Council Regulation (EU) 2022/922 of the European Parliament and of the Council^{1c} and monitoring carried out by existing national or international monitoring bodies. Member States should investigate all allegations of non-respect of fundamental rights during border surveillance and the screening procedure, including by ensuring that complaints are dealt with promptly, expeditiously and are capable of leading to the identification and sanction of those responsible in an appropriate manner.

^{1a} Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

^{1b} Regulation (EU) 2021/2303 of the European Parliament and of the Council of 15 December 2021 on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010 (OJ L 468, 30.12.2021, p. 1).

^{1c} Council Regulation (EU) 2022/922 of 9 June 2022 on the establishment and operation of an evaluation and monitoring mechanism to verify the application of the Schengen acquis, and repealing Regulation (EU) No 1053/2013 (OJ L 160, 15.6.2022, p. 1).

Amendment 30

Proposal for a regulation Recital 23 c (new)

Text proposed by the Commission

Amendment

(23c) Member States should ensure that the implementation of the screening procedure, and the set up and operation of the independent monitoring mechanism, are adequately financed and resourced. To that end, Member States may request funding for the establishment and operation of the independent monitoring mechanism from Union funding sources, in particular the Integrated Border Management Fund (IBMF) provided for in Regulation (EU) 2021/1148.

Amendment 31

Proposal for a regulation
Recital 23 d (new)

Text proposed by the Commission

Amendment

(23d) The obligations on Member States to establish or designate an existing independent monitoring mechanism during border surveillance and the screening procedure set out in this Regulation as well as during the asylum and return border procedure set out in Article [XX] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation] should be fulfilled through the establishment or designation of one mechanism that covers all relevant phases and procedures specified in the respective regulations.

Amendment 32

Proposal for a regulation
Recital 24

Text proposed by the Commission

Amendment

(24) By the end of the screening, the authorities responsible for the screening should fill in a ***de-briefing*** form. The form should be transmitted to the authorities examining applications for international protection or to the authorities competent for return – depending ***on*** whom the ***individual*** is referred ***to***. ***In the former case, the authorities responsible for the screening should also indicate any elements which may seem to be relevant for determining whether the competent authorities should submit the application of the third-country national concerned to an accelerated examination procedure or to the border procedure.***

(24) By the end of the screening, the authorities responsible for the screening should fill in a ***screening*** form. The form should be transmitted to the authorities examining applications for international protection or to the authorities competent for return – depending ***to*** whom the ***person*** is referred.

Amendment 33

Proposal for a regulation
Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) The information in the screening form should be recorded in such a way that it is amenable to administrative and judicial review during any subsequent asylum or return procedure. The person subject to the screening should have the possibility to indicate to the competent authorities that the information contained in the form is incorrect. Any such indication should be recorded in the screening form without delaying the completion of the screening.

Amendment 34

Proposal for a regulation
Recital 24 b (new)

Text proposed by the Commission

Amendment

(24b) The person concerned should be provided with a copy of the screening form before it is transmitted to the relevant authorities. In the case of minors, the copy of the form should be provided to the adult or adults responsible for the child. In the case of unaccompanied minors, the form should be provided to the representative of the child.

Amendment 35

Proposal for a regulation
Recital 24 c (new)

Text proposed by the Commission

Amendment

(24c) The processing of data during the screening procedure should always be carried out in accordance with Regulation

(EU) 2016/679 of the European Parliament and of the Council^{1a} [GDPR], Regulation 2018/1725 of the European Parliament and of the Council^{1b} or, where relevant, Directive 2016/680 of the European Parliament and of the Council^{1c} [Police Directive], including the general principles of data minimisation and purpose limitation. Particular attention should be given to Article 13 of Regulation (EU) 2016/679 [GDPR], Article 13 of Directive (EU) 2016/680 [Police Directive] and Article 15 of Regulation (EU) 2018/1725, including the right to request from the data controller access to and rectification or erasure of personal data and the right to lodge a complaint with a supervisory authority. When implementing this Regulation, all relevant opinions and recommendations of the European Data Protection Board and European Data Protection Supervisor should be taken into account.

^{1a} *Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).*

^{1b} *Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).*

^{1c} *Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the*

processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (OJ L 119, 4.5.2016, p. 89).

Amendment 36

Proposal for a regulation Recital 25

Text proposed by the Commission

(25) The biometric data taken during the screening should, together with the data referred to in Articles [12, 13, 14 and 14a] of the Eurodac Regulation be transmitted to Eurodac by the competent authorities in accordance with the deadlines provided for in that Regulation.

Amendment

deleted

Amendment 37

Proposal for a regulation Recital 26

Text proposed by the Commission

(26) A preliminary health examination should be carried out on all persons submitted to the screening *at the external borders* with a view to identifying persons in need of immediate care or requiring other measures to be taken, for instance isolation on public health grounds. The specific needs of minors and vulnerable persons should be taken into account. *If it is clear from the circumstances that such examination is not needed, in particular because the overall condition of the person appears to be very good, the examination should not take place and*

Amendment

(26) A preliminary health examination should be carried out on all persons submitted to the screening with a view to identifying persons in need of immediate care or requiring other measures to be taken, for instance isolation on public health grounds. The specific needs of minors and vulnerable persons should be taken into account. The preliminary health examination should be carried out by *qualified medical professionals of* the health authorities of the Member State concerned.

the person concerned should be informed of that fact. The preliminary health examination should be carried out by the health authorities of the Member State concerned. ***With regard to third-country nationals apprehended within the territory, the preliminary medical examination should be carried out where it is deemed necessary at first sight.***

Amendment 38

Proposal for a regulation Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) A preliminary vulnerability check should be carried out on all persons submitted to the screening with a view to identifying persons who are in a vulnerable situation, are victims of torture or other inhuman or degrading treatment, are stateless persons or at risk of becoming stateless persons, or have special reception or procedural needs within the meaning of Article [21] of Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article [20] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation]. The vulnerability check should be carried out by qualified professionals of the Member State concerned.

Amendment 39

Proposal for a regulation Recital 27

Text proposed by the Commission

Amendment

(27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter ***of Fundamental Rights of the European***

(27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter and have access to emergency health care and

Union and have access to emergency health care and essential treatment of illnesses. Particular attention should be paid to individuals with vulnerabilities, such as pregnant women, elderly persons, single parent families, persons with **an immediately identifiable** physical or mental disability, persons **visibly having suffered** psychological **or** physical **trauma and unaccompanied minors**. In particular, in case of a minor, information should be provided in a child-friendly and age appropriate manner. All the authorities involved in the performance of the tasks related to the screening should respect human dignity, privacy, and refrain from any discriminating actions or behaviour.

essential treatment of illnesses. **Directive (EU) XXX/XXX [Reception Conditions Directive] applies to applicants for international protection**. Particular attention should be paid to individuals with vulnerabilities, such as **minors, unaccompanied minors**, pregnant women, elderly persons, single parent families, **victims of trafficking in human beings**, persons with **a serious illness, persons with a mental disorder, persons with a physical or mental disability, persons who have been subjected to torture, rape or other serious forms of psychological physical or sexual violence**. In particular, in **the** case of a minor, information should be provided in a child-friendly and age appropriate manner **and should also be provided to the representative of the minor**. All the authorities involved in the performance of the tasks related to the screening should respect human dignity, privacy, and refrain from any discriminating actions or behaviour.

Amendment 40

Proposal for a regulation Recital 28

Text proposed by the Commission

(28) Since third-country nationals subject to the screening may not **carry** the necessary identity and travel documents required for the legal crossing of the external border, an identification procedure should be **provided for** as part of the screening.

Amendment

(28) Since third-country nationals subject to the screening may not **have** the necessary identity and travel documents required for the legal crossing of the external border, **a verification of identity or** an identification procedure should be **carried out** as part of the screening.

Amendment 41

Proposal for a regulation Recital 29

(29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council (Interoperability Regulation)²⁵ to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for *third country* nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR *is kept for no longer than strictly necessary for the purposes of the underlying systems and should* automatically *be* deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive identification of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring *a maximum* protection of the data and avoiding unnecessary processing or duplication of data.

²⁵ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the

(29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council²⁵ (Interoperability Regulation) to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for *third-country* nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR *are* automatically deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive *verification of identity or* identification of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring *the* protection of the data and avoiding unnecessary processing or duplication of data.

²⁵ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the

European Parliament and of the Council
and Council Decisions 2004/512/EC and
2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

European Parliament and of the Council
and Council Decisions 2004/512/EC and
2008/633/JHA (OJ L 135, 22.5.2019, p.
27).

Amendment 42

Proposal for a regulation Recital 30

Text proposed by the Commission

(30) In order to establish the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a **query** with that data fails, the **query** could be carried out with identity data of the person in combination with travel document data, where such data are available. In accordance with the principles of necessity and proportionality, and where the **query** indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

Amendment

(30) In order to **verify or** establish the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a **consultation** with that data fails, the **consultation** could be carried out with identity data of the person in combination with travel document data, where such data are available. In accordance with the principles of necessity and proportionality, and where the **consultation** indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

Amendment 43

Proposal for a regulation Recital 32

Text proposed by the Commission

(32) Given that many persons submitted to the screening may not **carry** any travel documents, the authorities conducting the

Amendment

(32) Given that many persons submitted to the screening may not **have** any travel documents, the authorities conducting the

screening should have access to any other relevant documents held by the persons concerned in cases where the biometric data of such persons are not usable or yield no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.

screening should have access to any other relevant documents held by the persons concerned ***for the verification of identity or identification*** in cases where the biometric data of such persons are not usable or yield no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.

Amendment 44

Proposal for a regulation Recital 33

Text proposed by the Commission

(33) The identification of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition.

Amendment

(33) The identification of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition. ***It is neither necessary nor proportionate to consult the same database multiple times in respect of the same person. The collection of personal data, and in particular the taking of biometric data for the purpose of both verification or identification and of the registration in accordance with the requirements of Regulation (EU) xxxx/xxxx [Eurodac Regulation], should take place once as part of the screening.***

Amendment 45

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) In order to ensure uniform conditions for the implementation of **Articles 11(5) and 12(5)** of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶. For the adoption of relevant implementing acts, the examination procedure should be used.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).

Amendment

(34) In order to ensure uniform conditions for the implementation of **Article 11(5)** of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁶. For the adoption of relevant implementing acts, the examination procedure should be used.

²⁶ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).

Amendment 46

Proposal for a regulation
Recital 35

Text proposed by the Commission

(35) The screening should also assess whether the entry of the third-country nationals into the Union could pose a threat to internal security or to public policy.

Amendment

deleted

Amendment 47

Proposal for a regulation
Recital 36

Text proposed by the Commission

(36) As the screening concerns **persons** present at the external border **without fulfilling** entry conditions, or disembarked

Amendment

(36) As the screening concerns **third-country nationals** present at the external border **who may not fulfil** entry conditions,

after a search and rescue operation, the security checks as part of the screening should be **at least** of a similar level **as** the checks performed in respect of **third country** nationals **that** apply **on** beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.

or **who have been** disembarked after a search and rescue operation, the security checks as part of the screening should be of a similar level **to** the checks performed in respect of **third-country** nationals **who** apply beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.

Amendment 48

Proposal for a regulation Recital 39

Text proposed by the Commission

(39) ***It follows from the reasoning developed in recital (36) that*** as regards persons subject to the screening, automated ***verifications*** for security purposes ***should be carried out*** against the ***same systems as is provided for applicants for a visa or for a travel authorisation under the European Travel Information and Authorisation System: the VIS, EES, ETIAS, SIS, ECRIS-TCN, Europol and Interpol's SLTD and TDAWN. Persons submitted to the screening*** should also be ***checked against ECRIS-TCN as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences, Europol data referred to in the preceding recital 38, the Interpol's Lost and Stolen Travel Documents database and Travel Documents Associated with Notices databases (TDAWN).***

Amendment

(39) As regards persons subject to the screening, automated ***consultation*** for security purposes of the ***relevant databases*** should also be ***carried out***.

Amendment 49

Proposal for a regulation Recital 40

Text proposed by the Commission

(40) Those ***checks*** should be conducted in a manner that ensures that only data

Amendment

(40) ***The consultation of the relevant databases for security purposes*** should be

necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have requested international protection at a border crossing point, the consultation of databases for the security check as part of the screening should ***focus on the*** databases ***that*** were not consulted during the border checks at the external border, ***thus avoiding repeated consultations.***

conducted in a manner that ensures that only data necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have requested international protection at a border crossing point, the consultation of databases for the security check as part of the screening should ***take place only insofar as any of the relevant*** databases were not consulted during the border checks at the external border.

Amendment 50

Proposal for a regulation Recital 41

Text proposed by the Commission

(41) Where justified for the purpose of the security check, the screening could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in ***this*** context should be proportionate and should respect the human dignity of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.

Amendment

(41) Where justified for the purpose of the security check, the screening could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in ***the*** context ***of a security check*** should be proportionate and should respect the ***principles of*** human dignity ***and of physical and psychological integrity*** of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.

Amendment 51

Proposal for a regulation Recital 42

Text proposed by the Commission

(42) Since ***access to*** EES, ETIAS, VIS and ECRIS-TCN ***is necessary for the authorities designated to carry out the screening*** in order to establish whether ***the***

Amendment

(42) Since EES, ETIAS, VIS and ECRIS-TCN ***may include relevant information*** in order to establish whether ***a*** person could pose a threat to internal

person could pose a threat to ***the*** internal security ***or to public policy***, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) No 2019/816, respectively, should be amended to provide for ***this additional*** access ***right which is currently not provided by those Regulations***. In the case of Regulation (EU) No 2019/816, this amendment should for reasons of variable geometry take place through a different regulation than the present one.

security, Regulation (EC) No 767/2008 of the European Parliament and of the Council^{1a}, Regulation (EU) 2017/2226 of the European Parliament and of the Council^{1b}, Regulation (EU) 2018/1240 of the European Parliament and of the Council^{1c} and Regulation (EU) 2019/816 of the European Parliament and of the Council^{1d}, respectively, should be amended to provide for ***limited*** access ***rights for the screening authorities for this specific purpose***. In the case of Regulation (EU) 2019/816, this amendment should for reasons of variable geometry take place through a different regulation than the present one.

^{1a} ***Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).***

^{1b} ***Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 (OJ L 327, 9.12.2017, p. 20).***

^{1c} ***Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).***

^{1d} Regulation (EU) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

Amendment 52

Proposal for a regulation Recital 44

Text proposed by the Commission

(44) *Since the effective implementation of the screening is dependent upon correct identification of the individuals concerned and of their security background*, the consultation of European databases for that purpose *is justified by the same* objectives for which each of those databases has been established, *that is to say, the effective management of the Union's external borders, the internal security of the Union and the effective implementation of the Union's asylum and return policies.*

Amendment

(44) The consultation of European databases for *the purpose of verification of identity or identification and security checks during the screening can be justified to the extent necessary for achieving* those purposes *and in accordance with the* objectives for which each of those databases has been established. *Information on whether the consultation of relevant databases for security purposes in accordance with Article 11 resulted in a hit or no hit should be included in the screening form.*

Amendment 53

Proposal for a regulation Recital 44a (new)

Text proposed by the Commission

Amendment

(44a) In order to supplement certain non-essential aspects of this Regulation, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission in respect of the procedure for cooperation and the sharing of personal data between the

authorities responsible for carrying out the screening and other competent authorities for determining whether a person might pose a threat to internal security. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making^{1a}. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

^{1a} OJ L 123, 12.5.2016, p. 1.

Amendment 54

Proposal for a regulation Recital 45

Text proposed by the Commission

(45) Since the objectives of this Regulation, namely ***the strengthening*** of the ***control of*** persons ***who are about to enter the Schengen area and their referral to the appropriate procedures***, cannot be achieved by Member States acting alone, it is necessary to establish common rules at Union level. ***Thus***, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Amendment

(45) Since the objectives of this Regulation, namely ***to strengthen*** the ***border checks at the external borders and to provide for the verification of identity or for the identification of all third-country nationals subject to the screening and for the consultation of the relevant databases in order to verify whether the*** persons ***might pose a threat to internal security***, cannot be ***sufficiently*** achieved by ***the*** Member States, ***but can rather be better achieved*** at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of

proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

Amendment 55

Proposal for a regulation Article 1 – title

Text proposed by the Commission

Amendment

Subject matter *and scope*

Subject matter

Amendment 56

Proposal for a regulation Article 1 – paragraph 1

Text proposed by the Commission

Amendment

This Regulation establishes *the* screening at the external borders of the Member States of all third-country nationals who have crossed the external border in an *unauthorised* manner, of those who have applied for international protection during border checks without fulfilling entry conditions, as well as those disembarked after a search and rescue operation, before they are referred to the appropriate procedure.

This Regulation establishes *a* screening *procedure* at the external borders of the Member States of all third-country nationals who have crossed the external border in an *irregular* manner, of those who have applied for international protection during border checks without fulfilling entry conditions, as well as those disembarked after a search and rescue operation, before they are referred to the appropriate procedure.

Amendment 57

Proposal for a regulation Article 1 – paragraph 2

Text proposed by the Commission

Amendment

The purpose of the screening shall be the strengthening of the control of persons who are about to enter the Schengen area and their referral to the appropriate procedures.

deleted

Amendment 58

Proposal for a regulation Article 1 – paragraph 3

Text proposed by the Commission

The **object** of the screening shall be **the identification of** all third-country nationals subject to it and **the verification** against relevant databases **that** the persons subject to it **do not** pose a threat to internal security. The screening shall also **entail health checks, where appropriate**, to identify persons **vulnerable and in the need of health care as well the ones** posing a threat to public health. **Those checks shall contribute to referring such persons to the appropriate procedure.**

Amendment

The **purpose** of the screening shall be **to strengthen border checks at the external borders, to identify** all third-country nationals subject to it and **to verify** against **the** relevant databases **whether** the persons subject to it **might** pose a threat to internal security. The screening shall also **include a mandatory preliminary health check and a mandatory preliminary vulnerability check, which seek to identify vulnerable persons, persons with special reception or procedural needs, and persons in need of health care. The screening shall also seek** to identify persons that **possibly** pose a threat to public health.

Amendment 59

Proposal for a regulation Article 1 – paragraph 4

Text proposed by the Commission

The screening shall also be carried out within the territory of the Member States where there is no indication that third-country nationals have been subject to controls at external borders.

Amendment

deleted

Amendment 60

Proposal for a regulation Article 1 – paragraph 4a (new)

Text proposed by the Commission

Amendment

This Regulation also provides for an independent mechanism to be established

in each Member State to monitor compliance with Union and international law, including the Charter during border surveillance and the screening procedure.

Amendment 61

Proposal for a regulation Article 1 a (new)

Text proposed by the Commission

Amendment

Article 1a

Fundamental rights

When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter, with relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 ('the Geneva Convention'), and with the obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Amendment 62

Proposal for a regulation Article 2 – paragraph 1 – point 1

Text proposed by the Commission

Amendment

1. 'unauthorised crossing of the external border' means crossing of an external border of a Member State by land, sea or air, at places other than border crossing points or at times other than the fixed opening hours, as referred to in Article 5(3) of Regulation (EU) 2016/399;

deleted

Amendment 63

Proposal for a regulation
Article 2 – paragraph 1 – point 5 a (new)

Text proposed by the Commission

Amendment

5a. 'biometric data' means fingerprint data and facial image data, as defined in Article 3, point (p), of Regulation (EU) xxxx/202x [Eurodac Regulation];

Amendment 64

Proposal for a regulation
Article 2 – paragraph 1 – point 5 b (new)

Text proposed by the Commission

Amendment

5b. 'stateless person' means a stateless person as defined in Article 1 of the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954, in its original version;

Amendment 65

Proposal for a regulation
Article 2 – paragraph 1 – point 5 c (new)

Text proposed by the Commission

Amendment

5c. 'representative' means a person or an organisation, including a public authority designated by the competent authorities or bodies, with the necessary skills and expertise, including regarding the treatment and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as applicable, in order to safeguard the best interests and general well-being of such an unaccompanied minor and so that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation;

Amendment 66

Proposal for a regulation

Article 2 – paragraph 1 – point 5 d (new)

Text proposed by the Commission

Amendment

5d. ‘minor’ means a third-country national or stateless person below the age of 18 years;

Amendment 67

Proposal for a regulation

Article 2 – paragraph 1 – point 5 e (new)

Text proposed by the Commission

Amendment

5e. ‘unaccompanied minor’ means a minor who arrives on the territory of the Member State unaccompanied by an adult responsible for such minor, whether by law or by the practice of the Member State concerned, and provided that such minor is not effectively taken into the care of such an adult, including a minor who is left unaccompanied after entering the territory of a Member State;

Amendment 68

Proposal for a regulation

Article 2 – paragraph 1 – point 5 f (new)

Text proposed by the Commission

Amendment

5f. ‘detention’ means confinement of a person by a Member State within a particular place, where such person is deprived of freedom of movement.

Amendment 69

Proposal for a regulation

Article 3 – title

Text proposed by the Commission

Amendment

Screening at the external border

Scope

Amendment 70

Proposal for a regulation

Article 3 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. This Regulation shall apply to all third-country nationals who:

1. ***The screening provided for in*** this Regulation shall apply to all third-country nationals, ***regardless of whether they have made an application for international protection,*** who:

Amendment 71

Proposal for a regulation

Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) are apprehended in connection with an ***unauthorised*** crossing of the external border of a Member State by land, sea or air, except ***third country*** nationals for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013 ***for reasons other than their age,*** or

(a) are apprehended in connection with an ***irregular*** crossing of the external border of a Member State by land, sea or air, except ***third-country*** nationals for whom, ***for reasons other than their age,*** the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013, or

Amendment 72

Proposal for a regulation

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) are disembarked in the territory of a Member State following a search and rescue operation.

(b) are disembarked in the territory of a Member State following a search and rescue operation ***and do not fulfil the entry conditions set out in Article 6 of***

Amendment 73

Proposal for a regulation

Article 3 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

The screening shall apply to those persons regardless of whether they have applied for international protection.

deleted

Amendment 74

Proposal for a regulation

Article 3 – paragraph 3

Text proposed by the Commission

Amendment

3. The screening is without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399, ***except the situation where the beneficiary of an individual decision issued by the Member State based on Article 6(5)(c) of that Regulation is seeking international protection.***

3. The screening is without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399 ***[Schengen Borders Code].***

Amendment 75

Proposal for a regulation

Article 4 – title

Text proposed by the Commission

Amendment

Authorisation to enter the territory of a Member State

Entry into the territory of a Member State

Amendment 76

Proposal for a regulation

Article 4 – paragraph 1

Text proposed by the Commission

1. During the screening, the persons referred to in Article 3, paragraphs 1 and 2 ***shall not be authorised to enter*** the territory of a Member State.

Amendment

1. During the screening, ***Member States may consider*** the persons referred to in Article 3, paragraphs 1 and 2 ***as not having entered*** the territory of a Member State.

Amendment 77

**Proposal for a regulation
Article 4 – paragraph 2**

Text proposed by the Commission

2. ***Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall be discontinued and the third-country national concerned shall be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that Regulation.***

Amendment

deleted

Amendment 78

**Proposal for a regulation
Article 4 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Without prejudice to Article 3(3) and Article 14(7) of this Regulation, where a Member State implements a border procedure for the examination of applications for international protection in accordance with Article 41 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], the persons referred to in Article 3(1) and (2) of this Regulation shall not be authorised to enter the territory of that Member State

during the screening.

Amendment 79

Proposal for a regulation Article 5

Text proposed by the Commission

Amendment

Article 5

deleted

Screening within the territory

Member States shall apply the screening to third-country nationals found within their territory where there is no indication that they have crossed an external border to enter the territory of the Member States in an authorised manner.

Amendment 80

Proposal for a regulation Article 6 – paragraph 1

Text proposed by the Commission

Amendment

1. In the cases referred to in Article 3, the screening shall be conducted at locations situated at or in proximity to the external borders. *deleted*

Amendment 81

Proposal for a regulation Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. In the cases referred to in Article 5, the screening shall be conducted at any appropriate location within the territory of a Member State. *deleted*

Amendment 82

Proposal for a regulation
Article 6 – paragraph 3

Text proposed by the Commission

Amendment

3. *In the cases referred to in Article 3, the screening shall be carried out without delay and shall in any case be completed within 5 days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point. In exceptional circumstances, where a disproportionate number of third-country nationals needs to be subject to the screening at the same time, making it impossible in practice to conclude the screening within that time-limit, the period of 5 days may be extended by a maximum of an additional 5 days.* *deleted*

With regard to persons referred to in Article 3(1)(a) to whom Article 14 (1) and (3) of Regulation (EU) 603/2013 apply, where they remain physically at the external border for more than 72 hours, the period for the screening shall be reduced to two days.

Amendment 83

Proposal for a regulation
Article 6 – paragraph 4

Text proposed by the Commission

Amendment

4. *Member States shall notify the Commission without delay about the exceptional circumstances referred to in paragraph 3. They shall also inform the Commission as soon as the reasons for extending the screening period have ceased to exist.* *deleted*

Amendment 84

Proposal for a regulation
Article 6 – paragraph 5

Text proposed by the Commission

Amendment

5. The screening referred to in Article 5 shall be carried out without delay and in any case shall be completed within 3 days from apprehension.

deleted

Amendment 85

Proposal for a regulation
Article 6 – paragraph 6 – point a

Text proposed by the Commission

Amendment

(a) preliminary health **and vulnerability** check as referred to in Article 9;

(a) **a** preliminary health check as referred to in Article 9;

Amendment 86

Proposal for a regulation
Article 6 – paragraph 6 – point a a (new)

Text proposed by the Commission

Amendment

(aa) a preliminary vulnerability check as referred to in Article 9;

Amendment 87

Proposal for a regulation
Article 6 – paragraph 6 – point b

Text proposed by the Commission

Amendment

(b) identification as referred to in Article 10;

(b) identification **or verification of identity** as referred to in Article 10;

Amendment 88

Proposal for a regulation
Article 6 – paragraph 6 – point c

Text proposed by the Commission

(c) registration of biometric data in *the appropriate databases as referred to in Article 14(6), to the extent it has not occurred yet*;

Amendment

(c) registration of biometric data in *accordance with Articles 10, 13 and 14a of Regulation (EU) xxxx/xxxx [Eurodac Regulation]*;

Amendment 89

Proposal for a regulation
Article 6 – paragraph 6 – point d

Text proposed by the Commission

(d) security check as referred to in Article 11;

Amendment

(d) *a* security check as referred to in Article 11;

Amendment 90

Proposal for a regulation
Article 6 – paragraph 6 – point e

Text proposed by the Commission

(e) the filling out of a *de-briefing* form as referred to in Article 13;

Amendment

(e) the filling out of a *screening* form as referred to in Article 13;

Amendment 91

Proposal for a regulation
Article 6 – paragraph 6 – point f

Text proposed by the Commission

(f) referral to the appropriate procedure as referred to in Article 14.

Amendment

(f) referral to the appropriate procedure as referred to in Article 14.

Amendment 92

Proposal for a regulation
Article 6 – paragraph 6 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The screening may be conducted at any appropriate and adequate location within the territory of a Member State to be designated by that Member State, including at or in proximity to the external borders.

Amendment 93

Proposal for a regulation

Article 6 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Organisations and persons providing advice and counselling, including legal assistance and representation, shall have effective access to third-country nationals, in particular to those held in detention facilities or present at the border crossing points, including transit zones, at external borders.

Amendment 94

Proposal for a regulation

Article 6 – paragraph 6 b (new)

Text proposed by the Commission

Amendment

6b. The screening shall be carried out without delay and shall in any case be completed within five days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at the border crossing point.

With regard to persons referred to in Article 3(1)(a) to whom [Article 14(1) and (3)] of Regulation (EU) xxxx/xxxx [Eurodac Regulation] apply, where those persons remain physically at the external

border for more than 72 hours, the screening shall apply to them thereafter and the period for the screening shall be reduced to two days.

Amendment 95

Proposal for a regulation

Article 6 – paragraph 6 c (new)

Text proposed by the Commission

Amendment

6c. For the duration of a situation of crisis in accordance with Regulation (EU) XXX/XXXX [Crisis Regulation], the period of five days set out in paragraph 6(b) of this Article may be extended by a maximum of five additional days.

Amendment 96

Proposal for a regulation

Article 6 – paragraph 6 d (new)

Text proposed by the Commission

Amendment

6d. Member States shall ensure that all persons subject to the screening are accorded a standard of living which guarantees their subsistence, protects their physical and mental health, and respects their rights under the Charter.

Directive (EU) xxxx/xxxx [Reception Conditions Directive] shall apply to persons who apply for international protection, in accordance with Article 16 of that Directive, from the moment that those persons make their application for international protection.

Amendment 97

Proposal for a regulation

Article 6 – paragraph 6 e (new)

Text proposed by the Commission

Amendment

6e. When it proves necessary and on the basis of an individual assessment of each case, Member States may detain a person subject to the screening, if other less coercive alternative measures cannot be applied effectively. Member States may, where necessary, require persons subject to the screening to report to the competent authorities at a specified time or at reasonable intervals.

The provisions set out in Directive (EU) xxxx/xxxx [Reception Conditions Directive] regarding detention and the application of alternative measures, in particular Articles 8 to 12 and Article 16(2), second subparagraph of that Directive, shall apply mutatis mutandis to all persons subject to the screening.

Amendment 98

Proposal for a regulation Article 6 – paragraph 6 f (new)

Text proposed by the Commission

Amendment

6f. Third-country nationals shall not be subject to any intrusive biometric surveillance technologies nor predictive analytics and biometric categorisation in or around the reception or screening facilities or during the screening. The use of lie detection systems or long-range listening devices shall be prohibited.

Amendment 99

Proposal for a regulation Article 6 – paragraph 7 – subparagraph 1

Text proposed by the Commission

Amendment

Member States shall designate competent

Member States shall designate competent

authorities **to** carry out the screening. **They** shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

authorities **responsible for the screening and shall ensure that the staff of those competent authorities who will carry out the screening have the appropriate knowledge and have received the necessary training in accordance with Article 8 of Regulation (EU) 2021/2303 [EU Asylum Agency Regulation]. Member States** shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

Amendment 100

Proposal for a regulation

Article 6 – paragraph 7 – subparagraph 2

Text proposed by the Commission

Member States shall designate qualified medical **staff** to carry out the health check provided for in Article 9. National child protection authorities and national anti-trafficking rapporteurs shall **also be involved**, where appropriate.

Amendment

Member States shall designate qualified medical **professionals** to carry out the health **check provided for in Article 9 and qualified professionals to carry out the vulnerability** check provided for in Article 9. National child protection authorities and national anti-trafficking rapporteurs **or officers** shall, where appropriate, **also be involved**.

Amendment 101

Proposal for a regulation

Article 6 – paragraph 7 – subparagraph 3

Text proposed by the Commission

The competent authorities may be assisted or supported in the performance of the screening by experts or liaison officers and teams deployed by the European Border and Coast Guard Agency and the [European Union Agency for Asylum] within the limits of their mandates.

Amendment

The competent authorities may be assisted or supported in the performance of the screening by experts or liaison officers and teams deployed by the European Border and Coast Guard Agency, **including as referred to in Article 40(4) of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation]**, and the [European Union Agency for Asylum] within the limits of their mandates

provided that such experts have the relevant training and qualifications as set out in the first two subparagraphs.

Amendment 102

Proposal for a regulation Article 7 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt relevant provisions to investigate allegations of non-respect for fundamental rights *in relation to* the screening.

Amendment

1. Member States shall adopt relevant provisions to investigate ***all*** allegations of non-respect for fundamental rights ***during border surveillance and*** the screening ***procedure***.

They shall adopt provisions under national law to penalise a failure to respect fundamental rights. The penalties provided for shall be effective, proportionate and dissuasive.

Amendment 103

Proposal for a regulation Article 7 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. Each Member State shall establish an independent monitoring mechanism

Amendment

2. Each Member State shall establish an independent monitoring mechanism ***or designate an existing independent mechanism, if it meets the criteria set out in this Regulation.***

— ***to ensure compliance with EU and international law, including the Charter of Fundamental Rights, during the screening;***

— ***where applicable, to ensure compliance with national rules on detention of the person concerned, in particular concerning the grounds and the duration of the detention;***

— ***to ensure that allegations of non-respect for fundamental rights in relation***

to the screening, including in relation to access to the asylum procedure and non-compliance with the principle of non-refoulement, are dealt with effectively and without undue delay.

Amendment 104

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

The mechanism shall monitor compliance with Union and international law, including the Charter, during border surveillance and the screening procedure, including in relation to:

- a) access to the asylum procedure;*
- b) the principle of non-refoulement;*
- c) the best interest of the child;*
- d) the right to health care;*
- e) reception conditions;*
- f) the relevant rules on detention of the person concerned;*
- g) the procedural safeguards applicable to the person concerned.*

Amendment 105

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 b (new)

Text proposed by the Commission

Amendment

The mechanism shall ensure that allegations of non-respect for fundamental rights in all relevant activities in relation to border surveillance and the screening for all third-country nationals referred to in Article 3(1) and 3(2) are properly investigated and dealt with effectively and without undue delay,

or where necessary trigger such investigations. The mechanism shall monitor the progress of such investigations.

Amendment 106

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 1 c (new)

Text proposed by the Commission

Amendment

The independent monitoring mechanism shall issue recommendations to Member States.

Amendment 107

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Member States shall put in place adequate safeguards to guarantee the independence of the mechanism.

Member States shall put in place adequate safeguards to guarantee the independence of the mechanism, *in line with criteria recognised under relevant international human rights law and standards.*

Amendment 108

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Member States shall involve national human rights institutions, national ombudspersons and international organisations in the management and operation of the mechanism. They may also involve relevant non-governmental organisations. Insofar as one or more of

those institutions or organisations are not directly involved in the mechanism, the bodies responsible for the monitoring mechanism shall establish and maintain close links with them. The bodies responsible for the mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor.

Amendment 109

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 2 b (new)

Text proposed by the Commission

Amendment

Member States shall provide bodies responsible for the mechanism with access to all relevant locations, including reception and detention facilities, individuals and documents, insofar as such access is necessary to allow the bodies responsible for the mechanism to fulfil the obligations set out in this Article. Where information gathered on an individual case suggests that a criminal offence has been committed, that information shall be handed over to the national prosecuting authorities or national prosecution services.

Amendment 110

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Amendment

The **Fundamental Rights Agency** shall issue general guidance for Member States on the **setting up of such** mechanism and its independent functioning. Furthermore, Member States may request the **Fundamental Rights Agency** to support

The **FRA** shall issue general guidance for Member States on the **establishment of a monitoring** mechanism and its independent functioning. Furthermore, Member States may request the **FRA** to support them in developing their national monitoring

them in developing their national monitoring mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

Amendment 111

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 3 a (new)

Text proposed by the Commission

Amendment

The work of the independent monitoring mechanisms shall contribute to the assessment of the effective application and implementation of the Charter according to Article 15(1) and Annex III of Regulation (EU) 2021/1060 of the European Parliament and of the Council^{1a} [Common Provisions Regulation].

^{1a} Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 laying down common provisions on the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund and the European Maritime, Fisheries and Aquaculture Fund and financial rules for those and for the Asylum, Migration and Integration Fund, the Internal Security Fund and the Instrument for Financial Support for Border Management and Visa Policy (OJ L 231, 30.6.2021, p. 159).

Amendment 112

Proposal for a regulation

Article 7 – paragraph 2 – subparagraph 4

Text proposed by the Commission

Amendment

Member States may invite relevant national, international and non-governmental organisations and bodies to participate in the monitoring.

deleted

Amendment 113

Proposal for a regulation

Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The mechanism referred to above shall be without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS as set out in Article 14 of Regulation (EU) 2021/2303 [EU Asylum Agency Regulation] and to the role of the fundamental rights monitors in monitoring respect for fundamental rights in all activities of the European Border and Coast Guard Agency as set out in Article 80 of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation].

Amendment 114

Proposal for a regulation

Article 8 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. Third-country nationals subject to the screening ***shall be succinctly informed*** about the purpose and the modalities of the screening:

1. ***Member States shall inform*** third-country nationals subject to the screening about the purpose, ***duration*** and the modalities of the screening, ***including***:

Amendment 115

Proposal for a regulation
Article 8 – paragraph 1 – point a

Text proposed by the Commission

(a) the steps ***and modalities*** of the screening as well as possible outcomes of the screening;

Amendment

(a) the steps of the screening as well as possible outcomes of the screening;

Amendment 116

Proposal for a regulation
Article 8 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) the right to apply for international protection, in particular in the circumstances specified in Article 30 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation];

Amendment 117

Proposal for a regulation
Article 8 – paragraph 1 – point b

Text proposed by the Commission

(b) the rights and obligations of ***third country*** nationals during the screening, including the obligation on them to remain in the designated facilities during the screening.

Amendment

(b) the rights and obligations of ***third-country*** nationals during the screening, including the obligation on them to remain in the designated facilities during the screening ***and the possibility to contact and be contacted by the organisations and persons referred to in Article 6(6a) of this Regulation;***

Amendment 118

Proposal for a regulation
Article 8 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the rights referred to in Article 13 of Regulation (EU) 2016/679[GDPR], in Article 13 of Directive (EU) 2016/680 [Police Directive] and in Article 15 of Regulation (EU) 2018/1725.

Amendment 119

Proposal for a regulation

Article 8 – paragraph 2 – introductory part

Text proposed by the Commission

Amendment

2. **During the screening, they** shall also, as appropriate, **receive** information on:

2. **Member States** shall also, as appropriate, **provide** information on:

Amendment 120

Proposal for a regulation

Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) the applicable rules on the conditions of entry for third-country nationals in accordance with Regulation **(No)** 2016/399 [Schengen Border Code], as well as on other conditions of entry, stay and residence of the Member State concerned, **to the extent this information has not been given already**;

(a) **to the extent this information has not been given already**, the applicable rules on the conditions of entry for third-country nationals in accordance with Regulation **(EU)** 2016/399 [Schengen Borders Code], as well as on other conditions of entry, stay and residence of the Member State concerned;

Amendment 121

Proposal for a regulation

Article 8 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) where they have applied, or there are indications that they wish to apply, for

(b) where they have applied, or there are indications that they wish to apply, for

international protection, information on the ***obligation to apply for*** international protection in ***the Member State of first entry or legal stay set out in Article [9(1) and (2)] of Regulation (EU) No XXX/XXX [ex-Dublin Regulation]***, the consequences of non-compliance ***set out in Article [10(1)] of that Regulation***, and the ***information set out in Article 11 of that Regulation*** as well as on the procedures that follow the making of an application for international protection;

international protection, information on the ***obligations laid down for those seeking*** international protection in Regulation (EU) No XXX/XXX [Asylum and Migration Management Regulation], the consequences of non-compliance as well as on the procedures that follow the making of an application for international protection;

Amendment 122

Proposal for a regulation Article 8 – paragraph 2 – point c

Text proposed by the Commission

(c) ***the obligation for illegally staying*** third-country ***nationals*** to return in accordance with Directive XXXXX [Return Directive];

Amendment

(c) ***where it becomes apparent during the screening that the*** third-country ***national concerned does not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399 [Schengen Borders Code]***, ***the obligation*** to return in accordance with Directive XXXXX [Return Directive] ***and the possibilities to enrol in a programme providing logistical, financial and other material or in-kind assistance for the purpose of supporting voluntary departure;***

Amendment 123

Proposal for a regulation Article 8 – paragraph 2 – point d

Text proposed by the Commission

(d) ***the possibilities to enrol in a programme providing logistical, financial and other material or in-kind assistance for the purpose of supporting voluntary departure;***

Amendment

deleted

Amendment 124

Proposal for a regulation

Article 8 – paragraph 2 – point f

Text proposed by the Commission

Amendment

(f) the information referred to in Article 13 of the Regulation (EU) 2016/679³⁵ [GDPR].

deleted

³⁵ **Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016**

Amendment 125

Proposal for a regulation

Article 8 – paragraph 3

Text proposed by the Commission

Amendment

3. The information provided during the screening shall be given in a language which the third-country national understands **or is reasonably supposed to understand**. The information shall be given in writing **and, in exceptional circumstances**, where necessary, orally using interpretation services. It shall be provided in an appropriate manner taking into account the age and the gender of the person.

3. The information provided during the screening shall be given in a language which the third-country national understands. The information shall be given in writing **in a concise and easily accessible format, using clear and plain language and**, where necessary, orally using interpretation services. It shall be provided in an appropriate manner taking into account the age and the gender of the person **and in cases of unaccompanied minors in the presence of the representative as referred to in Article 9a.**

For those third-country nationals seeking international protection, that information may be provided at the same time as the information as laid down in Article 8(2) of Regulation (EU) xxxx/xxxx [Asylum

Procedure Regulation].

The responsible authorities shall make the necessary arrangements for interpretation services and, where necessary and appropriate, for cultural mediation services to be available to facilitate access to the procedure for international protection.

Amendment 126

**Proposal for a regulation
Article 9 – title**

Text proposed by the Commission

Amendment

Health checks ***and vulnerabilities***

Health ***and vulnerability*** checks

Amendment 127

**Proposal for a regulation
Article 9 – paragraph 1**

Text proposed by the Commission

Amendment

1. Third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary medical examination with a view to identifying any needs for immediate care or isolation on public health grounds, ***unless, based on the circumstances concerning the general state of the individual third-country nationals concerned and the grounds for directing them to the screening, the relevant competent authorities are satisfied that no preliminary medical screening is necessary. In that case, they shall inform those persons accordingly.***

1. ***All*** third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary medical examination ***by qualified medical professionals*** with a view to identifying any needs for immediate ***or long-term*** care or isolation on public health grounds.

Amendment 128

**Proposal for a regulation
Article 9 – paragraph 1 – subparagraph 1 a (new)**

Without prejudice to the obligations on Member States laid down in Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation], for those third-country nationals seeking international protection, the health check referred to in the first subparagraph of this Article may form part of the medical examination laid down in Article 23 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].

Amendment 129

Proposal for a regulation Article 9 – paragraph 2

Text proposed by the Commission

2. ***Where relevant, it shall be checked*** whether persons referred to in ***paragraph 1*** are in a vulnerable situation, victims of torture or have special reception or procedural needs within the meaning of Article ***20 of the [recast]*** Reception Conditions Directive.

Amendment

2. ***In addition, Member States shall ensure that qualified professionals assess whether persons submitted to the screening*** referred to in ***Article 3*** are in a vulnerable situation, ***are*** victims of torture ***or other inhuman or degrading treatment, are stateless persons or at risk of becoming stateless persons,*** or have special reception or procedural needs within the meaning of Article ***21 of Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article 20 of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].***

Amendment 130

Proposal for a regulation Article 9 – paragraph 3

Text proposed by the Commission

3. Where there are indications of vulnerabilities or special reception or

Amendment

3. Where there are indications of vulnerabilities or special reception or

procedural needs, the third-country national concerned shall receive timely and adequate support in view of their physical and mental health. In the case of minors, support shall be given by personnel trained and qualified to deal with minors, and in cooperation with child protection authorities.

procedural needs, the third-country national concerned shall receive timely and adequate support in view of their physical and mental health ***in adequate facilities in the Member State. Where a person claims not to have any nationality or when there are reasonable grounds to believe such person may be a stateless person, this shall be clearly registered.*** In the case of minors, support shall be given ***in a child-friendly manner*** by personnel ***properly*** trained and qualified to deal with minors, and in cooperation with child protection authorities.

Amendment 131

Proposal for a regulation Article 9 – paragraph 4

Text proposed by the Commission

4. Where it is deemed necessary based on the circumstances, third-country nationals submitted to the screening referred to in Article 5 shall be subject to a preliminary medical examination, notably to identify any medical condition requiring immediate care, special assistance or isolation.

Amendment

deleted

Amendment 132

Proposal for a regulation Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Without prejudice to the assessment of special reception needs required under Directive XXXX/XXX [Reception Conditions Directive], the assessment of special procedural needs required under Regulation XXXX/XXX [Asylum Procedures Regulation], and the vulnerability check required under

Directive XXX/XXX [Return Directive], the vulnerability assessment referred to in the second and third paragraphs of this Article may form part of the vulnerability and special procedural assessments laid down in those legislative acts.

Amendment 133

Proposal for a regulation Article 9 a (new)

Text proposed by the Commission

Amendment

Article 9a

Guarantees for minors

- 1. During the screening procedure, the best interests of the child shall always be a primary consideration in accordance with Article 24(2) of the Charter.**
- 2. Member States shall, as soon as possible, take measures to ensure that a representative represents and assists the unaccompanied minor during the screening. Where applicable, this representative shall be the same as the representative to be appointed in accordance with Article 23 of Directive (EU) XXX/XXX [Reception Conditions Directive]. The unaccompanied minor shall be informed immediately of the appointment of the representative. Such representatives shall perform their duties in accordance with the principle of the best interests of the child and shall have the necessary expertise to that end. In order to ensure the well-being and social development of the minor, the person acting as representative shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives.**
- 3. Member States shall place a representative in charge of a**

proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than thirty at the same time to ensure that such representatives are able to perform their tasks effectively.

Amendment 134

Proposal for a regulation Article 10 – title

Text proposed by the Commission

Amendment

Identification

Verification of identity or identification

Amendment 135

Proposal for a regulation Article 10 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399, the identity of third-country nationals submitted to the screening pursuant to Article 3 ***or Article 5*** shall be verified or established, by using ***in particular*** the following, ***in combination with national and European databases***:

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399 ***[Schengen Borders Code]***, the identity of third-country nationals submitted to the screening pursuant to Article 3 of this Regulation shall be verified or established, by using, ***where applicable***, the following:

Amendment 136

Proposal for a regulation Article 10 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) data or information provided by ***or obtained from*** the third-country national concerned; and

(b) data or information provided by the third-country national concerned; and

Amendment 137

Proposal for a regulation
Article 10 – paragraph 2

Text proposed by the Commission

2. For the purpose of the identification referred to in paragraph 1, **the** competent authorities shall **query any relevant national databases as well as** the common identity repository (CIR) referred to in Article 17 of Regulation (EU) 2019/817. The biometric data of **a** third-country **national taken live during** the screening, **as well as the identity data and, where available, travel document data** shall be **used to that end**.

Amendment

2. For the purpose of the **verification or** identification referred to in paragraph 1 **of this Article, the designated** competent authorities shall **consult** the CIR referred to in Article 17 of Regulation (EU) 2019/817 **and the Schengen Information System (SIS)**. The biometric data of third-country **nationals subject to** the screening shall be **taken once for the purpose of both verification or identification and of the registration in Eurodac of that person**.

Amendment 138

Proposal for a regulation
Article 10 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The consultation provided for in paragraph 2 shall be launched using the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and Chapter II of Regulation (EU) 2019/818.

Amendment 139

Proposal for a regulation
Article 10 – paragraph 3

Text proposed by the Commission

Amendment

3. Where the biometric data of the third-country national cannot be used or where the **query** with those data **referred to in paragraph 2** fails, the **query** as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any identity,

3. Where the biometric data of the third-country national cannot be used or where the **consultation** with those data fails, the **consultation** as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any identity, travel or

travel or other document data or with the identity data provided by that third-country national.

other document data or with the identity data provided by that third-country national.

Amendment 140

Proposal for a regulation Article 10 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. The European Border and Coast Guard Agency may support the competent authorities in the identification of third-country nationals submitted to the screening in accordance with Regulation (EU) 2019/1896.

Amendment 141

Proposal for a regulation Article 11 – paragraph 1

Text proposed by the Commission

Amendment

1. **Third country** nationals submitted to the screening pursuant to Article 3 **or Article 5** shall undergo a security check to verify **that they do not constitute** a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.

1. **Third-country** nationals submitted to the screening pursuant to Article 3 shall undergo a security check to verify **whether they might pose** a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.

Amendment 142

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent that **they have not yet**

2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent that **this has not already**

done so in accordance with Article 8(3), point (a)(vi), of Regulation (EU) 2016/399, the competent authorities shall query relevant national and Union databases, in particular the Schengen Information System (SIS).

taken place in the context of checks performed in accordance with Article 8(3) of Regulation (EU) 2016/399 [Schengen Borders Code], the relevant Union databases, in particular the SIS, shall be consulted as provided for in Article 12. Relevant national databases in accordance with Article 8(3) of Regulation (EU) 2016/399 [Schengen Borders Code] may also be consulted for this purpose.

Amendment 143

Proposal for a regulation Article 11 – paragraph 3

Text proposed by the Commission

Amendment

3. *To the extent it has not been already done during the checks referred to in Article 8 of Regulation (EU) 2016/399, the competent authority shall query the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 29 of Regulation (EU) 2018/1240, the Visa Information System (VIS), the ECRIS-TCN system as far as convictions related to terrorist offences and other forms of serious criminal offences are concerned, the Europol data processed for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN) with the data referred to in Article 10(1) and using at least the data referred to under point (c) thereof.*

deleted

Amendment 144

Proposal for a regulation Article 11 – paragraph 4

Text proposed by the Commission

4. As regards the consultation of EES, ETIAS and VIS pursuant to paragraph 3, the retrieved data shall be limited to indicating refusals of a travel authorisation, refusals of entry, or decisions to refuse, annul or revoke a visa or residence permit, which are based on security grounds.

Amendment

4. As regards the consultation of EES, ETIAS and VIS pursuant to paragraph 2, the retrieved data shall be limited to indicating refusals of a travel authorisation, refusals of entry, or decisions to refuse, annul or revoke a visa or residence permit, which are based on security grounds.

Amendment 145

Proposal for a regulation

Article 11 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. As regards the consultation of the ECRIS-TCN system, the data retrieved shall be limited to convictions related to terrorist offences and other forms of serious criminal offences referred to in Article 5(1)(c) of Regulation (EU) 2019/816.

Amendment 146

Proposal for a regulation

Article 11 – paragraph 4 b (new)

Text proposed by the Commission

Amendment

4b. Any consultation of Interpol databases for the purposes of paragraph 1 shall be performed only when it is ensured that no information is revealed to the owner of the Interpol alert. Where it is not possible to perform such consultations in a way that no information is revealed to the owner of the Interpol alert, the screening shall not include the consultation of the Interpol databases.

Amendment 147

Proposal for a regulation
Article 12 – title

Text proposed by the Commission

Modalities for security *checks*

Amendment

Modalities for *the consultation of databases for security purposes*

Amendment 148

Proposal for a regulation
Article 12 – paragraph 1

Text proposed by the Commission

1. The *queries* provided for in Article 10(2) and in Article 11(2) may be launched using, for *queries* related to EU information systems and the CIR, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818³⁶.

³⁶ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.

Amendment

1. The *consultation* provided for in Article 11(2) of this Regulation shall be launched using, for *consultations* related to Union information systems and the CIR, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818³⁶.

³⁶ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.

Amendment 149

Proposal for a regulation
Article 12 – paragraph 2

Text proposed by the Commission

2. Where a *match* is obtained following a *query* as provided for in Article 11(3) against data in one of the information systems, the competent authority shall have access to consult the file corresponding to that match in the

Amendment

2. Where a *hit* is obtained following a *consultation* as provided for in Article 11(2), the authorities responsible in accordance with relevant Union law provisions shall provide the competent authority with detailed information on the

respective information system in order to determine the risk to internal security as referred to in Article 11(1).

grounds for the decisions recorded in the systems which triggered a hit or, pursuant to paragraphs 2b or 2c, an opinion on the threat to internal security as referred to in Article 11(1).

Amendment 150

Proposal for a regulation Article 12 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. When a hit is obtained following a consultation of the SIS, the competent authorities shall carry out the procedures set out in Regulations (EU) 2018/1860, Regulation (EU) 2018/1861 or Regulation (EU) 2018/1862 including the consultation of the alert issuing Member State through the SIRENE Bureaux.

Amendment 151

Proposal for a regulation Article 12 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. Where the consultation provided for in Article 11(2) of this Regulation reports a hit against ECRIS-TCN, the central authority of the Member State holding criminal records information on the third-country national concerned shall be notified of a request for an opinion in accordance with Article 7a of Regulation (EU) 2019/816. National criminal records shall be consulted prior to the delivery of that opinion.

Amendment 152

Proposal for a regulation Article 12 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

2c. When a hit is obtained in the ETIAS watchlist, the provisions of Article 35a of Regulation (EU) 2018/1240 shall apply.

Amendment 153

Proposal for a regulation Article 12 – paragraph 3

Text proposed by the Commission

Amendment

3. Where a **query** as provided for in Article 11(3) reports a **match** against Europol data, **the competent authority of the Member State** shall **inform** Europol **in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.**

3. Where a **consultation** as provided for in Article 11(2) reports a **hit** against Europol data, **an automated notification, containing the data used for the consultation,** shall **be sent to** Europol.

Amendment 154

Proposal for a regulation Article 12 – paragraph 4

Text proposed by the Commission

Amendment

4. **Where a query as provided for in Article 11(3) reports a match against the Interpol Travel Documents Associated with Notices database (Interpol TDAWN), the competent authority of the Member State shall inform the Interpol National Central Bureau of the Member State that launched the query in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.**

deleted

Amendment 155

Proposal for a regulation
Article 12 – paragraph 5

Text proposed by the Commission

5. The Commission shall adopt ***implementing acts*** to specify the procedure for cooperation between the authorities responsible for carrying out the screening, ***Interpol National Central Bureaux, Europol national unit, and ECRIS-TCN central authorities, respectively, to determine the risk*** to internal security. ***Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).***

Amendment

5. The Commission shall adopt ***delegated acts in accordance with Article 14a in order*** to specify the procedure for cooperation between the authorities responsible for carrying out the screening ***and other competent authorities to verify whether a person might pose a threat*** to internal security.

Amendment 156

Proposal for a regulation
Article 13 – title

Text proposed by the Commission

De-briefing form

Amendment

Screening form

Amendment 157

Proposal for a regulation
Article 13 – paragraph 1 – introductory part

Text proposed by the Commission

On completion of the screening, the competent authorities shall, with regard to the persons referred to in Article 3 ***and in Article 5***, complete the form in Annex I containing:

Amendment

To complete the screening, the competent authorities shall, with regard to the persons referred to in Article 3 complete the form set out in Annex I containing ***the following information***:

Amendment 158

Proposal for a regulation
Article 13 – paragraph 1 – point a

Text proposed by the Commission

- (a) name, date and place of birth and **sex**;

Amendment

- (a) name, date and place of birth and **gender**;

Amendment 159

Proposal for a regulation

Article 13 – paragraph 1 – point b

Text proposed by the Commission

- (b) initial indication of nationalities, countries of residence prior to arrival and languages spoken;

Amendment

- (b) **their** initial indication of nationalities **or statelessness**, countries of residence prior to arrival and languages spoken;

Amendment 160

Proposal for a regulation

Article 13 – paragraph 1 – point c

Text proposed by the Commission

- (c) reason for **unauthorised arrival, entry, and, where appropriate illegal stay or residence, including information on whether the person made an application for international protection**;

Amendment

- (c) **the** reason for **which the screening was performed as referred to in Article 3(1) and (2)**;

Amendment 161

Proposal for a regulation

Article 13 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

- (ca) **relevant information on the preliminary medical examination carried out in accordance with Article 9(1)**;

Amendment 162

Proposal for a regulation
Article 13 – paragraph 1 – point c b (new)

Text proposed by the Commission

Amendment

(cb) relevant information on the preliminary vulnerability assessment carried out in accordance with Article 9(2), in particular any vulnerability or special reception or procedural needs identified;

Amendment 163

Proposal for a regulation
Article 13 – paragraph 1 – point c c (new)

Text proposed by the Commission

Amendment

(cc) information as to whether the third-country national has applied for international protection;

Amendment 164

Proposal for a regulation
Article 13 – paragraph 1 – point c d (new)

Text proposed by the Commission

Amendment

(cd) information as to whether the third-country national has family members or close adult relatives located on the territory of the Member States;

Amendment 165

Proposal for a regulation
Article 13 – paragraph 1 – point c e (new)

Text proposed by the Commission

Amendment

(ce) whether the consultation of relevant databases for security purposes in accordance with Article 11 resulted in a

hit or no hit.

Amendment 166

Proposal for a regulation

Article 13 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) information obtained on routes travelled, including the point of departure, the places of previous residence, the third countries of transit and those where protection may have been sought or granted as well as the intended destination within the Union;

deleted

Amendment 167

Proposal for a regulation

Article 13 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) information on assistance provided by a person or a criminal organisation in relation to unauthorised crossing of the border, and any related information in cases of suspected smuggling.

deleted

Amendment 168

Proposal for a regulation

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Where such information is available, the form shall include:

(a) the reason for irregular arrival or entry;

(b) information obtained on routes travelled, including the point of departure, the places of previous residence, the third

countries of transit and those where international protection may have been sought or granted as well as the intended destination within the Union.

Amendment 169

Proposal for a regulation

Article 13 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The information in the screening form shall be recorded in such a way that it is amenable to administrative and judicial review during any subsequent asylum or return procedure.

Amendment 170

Proposal for a regulation

Article 13 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

The person concerned shall be provided with a copy of the form before it is transmitted to the relevant authorities as referred to in Article 14, paragraphs 1, 2 and 3. The person subject to the screening shall have the possibility to indicate that the information contained in the form is incorrect. Any such indication shall be included under the relevant information as referred to in this Article.

Amendment 171

Proposal for a regulation

Article 14 – title

Text proposed by the Commission

Amendment

Outcome of the screening

Completion of the screening

Amendment 172

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – introductory part

Text proposed by the Commission

The third country nationals referred to in Article 3(1) point (a) and (b) of this Regulation who

Amendment

Once the screening is completed, or when the period for carrying out the screening in accordance with Article 6(6b) or (6c) ends, third-country nationals referred to in Article 3(1) point (a) and (b) of this Regulation who:

Amendment 173

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – indent 1

Text proposed by the Commission

— have not ***applied*** for international protection and

Amendment

— have not ***expressed a wish to make an application*** for international protection and

Amendment 174

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 1 – subparagraph 1

Text proposed by the Commission

shall be referred to the competent authorities to apply procedures ***respecting*** Directive (EU) 2008/115/EC (Return Directive).

Amendment

shall be referred to the competent authorities to apply procedures ***in accordance with*** Directive (EU) 2008/115/EC [Return Directive], ***without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399 [Schengen Borders Code]***.

Amendment 175

Proposal for a regulation

Article 14 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

In cases not related to search and rescue operations, entry may be refused in accordance with Article 14 of Regulation 2016/399.

deleted

Amendment 176

Proposal for a regulation Article 14 – paragraph 2

Text proposed by the Commission

Amendment

2. Third-country nationals who ***made*** an application for international protection shall be referred to the authorities referred to in Article XY of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in Article 13 of this Regulation. ***On that occasion, the authorities conducting the screening shall point in the de-briefing form to any elements which seem at first sight to be relevant to refer the third-country nationals concerned into the accelerated examination procedure or the border procedure.***

2. Third-country nationals who ***make, have made, or express the wish to make*** an application for international protection shall be referred to the ***determining*** authorities referred to in Article [5] of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in Article 13 of this Regulation.

Amendment 177

Proposal for a regulation Article 14 – paragraph 4

Text proposed by the Commission

Amendment

4. ***The third-country nationals referred to in Article 5, who***
— ***have not applied for international protection and***
— ***with regard to whom the screening has not revealed that they fulfil the conditions for entry and stay***

deleted

*shall be subject to return procedures
respecting Directive 2008/115/EC.*

Amendment 178

Proposal for a regulation Article 14 – paragraph 5

Text proposed by the Commission

Amendment

5. *Where third-country nationals submitted to the screening in accordance with Article 5 make an application for international protection as referred to in Article 25 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation), paragraph 2 of this Article shall apply accordingly.* *deleted*

Amendment 179

Proposal for a regulation Article 14 – paragraph 6

Text proposed by the Commission

Amendment

6. *In respect of third-country nationals to whom Regulation EU No XXX/XXX [Eurodac Regulation] applies, the competent authorities shall take the biometric data referred to in Articles [10, 13, 14 and 14a] of that Regulation (EU) and shall transmit it in accordance with that Regulation.* *deleted*

Amendment 180

Proposal for a regulation Article 14 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. *In order to be in a position to effectively exercise the rights referred to in Article 13 of Regulation (EU) 2016/679*

[GDPR], in Article 13 of Directive (EU) 2016/680 [Police Directive] and in Article 15 of Regulation (EU) 2018/1725, in particular the right to request from the data controller access to and rectification or erasure of personal data and the right to lodge a complaint with a supervisory authority, the person concerned shall be provided with a copy of the form before it is transmitted to the relevant authorities as referred to in paragraphs 1, 2 and 3 of this Article. In the case of minors the copy of the form shall be provided to the adult or adults responsible for the child. In the case of unaccompanied minors, the form shall be provided to the representative of the child in accordance with Article 9a.

Amendment 181

Proposal for a regulation Article 14 – paragraph 7

Text proposed by the Commission

7. Where the **third country** nationals referred to in Article(s) 3(1) and **Article 5** are referred to an appropriate procedure regarding asylum or return, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article **6(3) and (5)**, the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure.

Amendment

7. Where the **third-country** nationals referred to in Article 3(1) and **(2) of this Regulation** are referred to an appropriate procedure regarding asylum, **relocation** or return, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article **6(6b) or (6c)**, the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure. **Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399 [Schengen Borders Code], the screening shall end.**

Amendment 182

Proposal for a regulation Article 14 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Persons identified as stateless persons or at risk of becoming stateless persons during the screening shall be referred to the competent authorities, which shall determine whether the individual is a stateless person and shall offer adequate protection, in accordance with national law.

Amendment 183

Proposal for a regulation Article 14 – paragraph 7 b (new)

Text proposed by the Commission

Amendment

7b. The Member State carrying out the screening procedure shall ensure that all personal data collected in the context of that procedure, in particular personal data included in the screening form, is deleted at the latest when:

(i) a final decision has been taken on the application for international protection, including any and all levels of appeal;

(ii) a final decision has been taken in respect of the return procedure, including any and all levels of appeal; or

(iii) the person has been granted entry into the Member State concerned under Article 6 of Regulation (EU) 2016/299 [Schengen Borders Code].

Amendment 184

Proposal for a regulation Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Exercise of the delegation

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.*
- 2. The power to adopt delegated acts referred to in Article 12(5) shall be conferred on the Commission for a period of three years from ... [date of entry into force of this Regulation]. The Commission shall draw up a report in respect of the delegation of power no later than nine months before the end of the three-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.*
- 3. The delegation of power referred to in Article 12(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.*
- 4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.*
- 5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.*
- 6. A delegated act adopted pursuant to Article 12(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months]*

of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.

Amendment 185

Proposal for a regulation

Article 16 – paragraph 1 – point -1 (new)

Regulation (EC) No 767/2008

Article 2 – paragraph 1 – point g a (new)

Text proposed by the Commission

Amendment

(-1) *In Article 2, the following point is added:*

"(ga) to allow for security checks in accordance with Article 11(2) of Regulation (EU) 2020/XXX [Screening Regulation].

Amendment 186

Proposal for a regulation

Article 16 – paragraph 1 – point 1

Regulation (EC) No 767/2008

Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Access to the VIS for the purposes of consulting the data shall be reserved exclusively for the duly authorised staff of the ETIAS Central Unit, of the national authorities of each Member State, including to duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240 of the European Parliament and of the Council, which are competent for the purposes laid down in Articles 15 to 22, for the duly authorised staff of the national

2. Access to the VIS for the purposes of consulting the data shall be reserved exclusively for the duly authorised staff of the ETIAS Central Unit, of the national authorities of each Member State, including to duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240 of the European Parliament and of the Council, which are competent for the purposes laid down in Articles 15 to 22, for the duly authorised staff of the national

authorities of each Member States and of the Union agencies, which are competent for the purposes laid down in Articles 20 and 21 of Regulation 2019/817, **and for the competent authorities provided under Article 6(6) of Regulation (EU) 2020/XXX of the European Parliament and of the Council**³⁷. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.;

³⁷ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

Amendment 187

Proposal for a regulation

Article 16 – paragraph 1 – point 1 a (new)

Regulation (EC) No 767/2008

Article 6 – paragraph 2 a (new)

Text proposed by the Commission

authorities of each Member States and of the Union agencies, which are competent for the purposes laid down in Articles 20, **20a** and 21 of Regulation 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.”;

deleted

Amendment

(1a) In Article 6, the following paragraph is inserted:

“2a. The authorities competent for the screening provided under Article 6(7) of Regulation (EU) 2020/xxxx [Screening Regulation] shall also have access to the VIS for consulting the data in order to perform a security check in accordance with Article 11(2) of that Regulation.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1) of Regulation (EU) 2020/xxxx [Screening Regulation] and the VIS shall return a hit where a decision to refuse, annul or revoke a visa or residence permit based on

the grounds provided for in Article 12(2)(a)(v) and (vi) is recorded in a matching file.

Where a hit is obtained, the VIS shall automatically notify the authorities responsible for a decision referred to in the second subparagraph of a request to provide the authorities competent for the screening with detailed information on the grounds thereof within four days of notification of the request.

Amendment 188

Proposal for a regulation

Article 17 – paragraph 1 – point 1

Regulation (EU) 2017/2226

Article 6 – paragraph 1 – point 1

Text proposed by the Commission

(I) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council³⁸, ***in particular*** for the checks provided under Article 10 thereof.

³⁸ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

Amendment

(I) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council ***[Screening Regulation]***, ***by allowing*** for the checks provided under Article 10 ***and Article 11(2)*** thereof.

deleted

Amendment 189

Proposal for a regulation

Article 17 – paragraph 1 – point 2 – point a

Regulation (EU) 2017/2226

Article 9 – paragraph 1

Text proposed by the Commission

2a. The **competent** authorities referred to in Article **5(6)** of Regulation (EU) 2020/XXX shall have access to the EES to consult **data**.;

Amendment

2a. The authorities **competent for the screening** referred to in Article **6(7)** of Regulation (EU) 2020/XXX shall have access to the EES to consult **the data in order to perform a security check in accordance with Article 11(2) of that Regulation**.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1) of Regulation (EU) 2020/XXX [Screening Regulation] and the EES shall return a hit where a refusal of entry record based on the grounds provided for in point I of Part B of Annex V to Regulation (EU) 2016/399 [Schengen Borders Code] is linked to a matching (individual) file.

Where a hit is obtained, the EES shall automatically notify the authority responsible for the refusal of entry decision referred to in the second subparagraph of a request to provide the screening authorities with detailed information on the grounds for such decision within four days of the notification of that request;

Amendment 190

Proposal for a regulation

Article 18 – paragraph 1 – point 1

Regulation (EU) 2018/1240

Article 4 – paragraph 1 – point a

Text proposed by the Commission

(a) contribute to a high level of security by providing for a thorough assessment of applicants as regards the risk they may pose to internal security, prior to their arrival at external border crossing points, **and of persons subject to the screening referred to in Regulation (EU) 2020/XXX of the European Parliament**

Amendment

(a) contribute to a high level of security by providing for a thorough assessment of applicants as regards the risk they may pose to internal security, prior to their arrival at external border crossing points, in order to determine whether there are factual indications or reasonable grounds based on factual indications to

and of the Council³⁹ [Screening Regulation], in order to determine whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk;

³⁹ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

Amendment 191

Proposal for a regulation

Article 18 – paragraph 1 – point 2 – introductory part

Text proposed by the Commission

(2) ***In Article 13, paragraph 5 is replaced by the following:***

conclude that the presence of the person on the territory of the Member States poses a security risk, ***and by allowing for a security check in accordance with Article 11(2) of Regulation (EU) 2020/xxxx of the European Parliament and of the Council [Screening Regulation];***”

deleted

Amendment

(2) ***Article 13 is amended as follows:***

Amendment 192

Proposal for a regulation

Article 18 – paragraph 1 – point 2 – point a (new)

Regulation (EU) 2018/1240

Article 13 – paragraph 4a

Present text

4a. Access to the ETIAS identity data and travel document data stored in the CIR shall also be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20 and

Amendment

a) paragraph 4a is replaced by the following:

”(4a) Access to the ETIAS identity data and travel document data stored in the CIR shall also be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20, Article

Article 21 of Regulation (EU) 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.

20a and Article 21 of Regulation (EU) 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.";

Amendment 193

Proposal for a regulation

Article 18 – paragraph 1 – point 2 – point b (new)

Regulation (EU) 2018/1240

Article 13 – paragraph 4a a (new)

Text proposed by the Commission

Amendment

(b) paragraph 4a a is inserted:

(4a a) The authorities competent for the screening referred to in Article 6(7) of Regulation (EU) 2020/XXX [Screening Regulation] shall also have access to ETIAS to consult the data in order to perform a security check in accordance with Article 11(2) of that Regulation.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 10(1), points (a) and (b), of Regulation (EU) 2020/XXX [Screening Regulation] and ETIAS shall return a hit where a decision refusing a travel authorisation based on point (b) of Article 37(1) is included in a matching (application) file.

Where a hit is obtained, ETIAS shall automatically notify the ETIAS National Unit of the Member State responsible for a decision referred to in the second subparagraph of a request to provide the authorities competent for the screening with detailed information on the grounds thereof within four days of notification of the request.

If the search carried out pursuant to paragraph 1 of this Article indicates that there is a correspondence between the data used for the search and the data

recorded in the ETIAS watchlist referred to in Article 34 of that Regulation, the ETIAS National Unit or Europol having entered the data in the ETIAS watchlist shall be notified of the correspondence and shall be responsible for accessing the data in the ETIAS watchlist and for providing an opinion in accordance with Article 35a of that Regulation.”

Amendment 194

Proposal for a regulation

Article 18 – paragraph 1 – point 2

Regulation (EU) 2018/1240

Article 13 – paragraph 5

Text proposed by the Commission

5. Each Member State shall designate the competent national authorities referred to in paragraphs 1, 2 and 4 of this Article, and the competent **authority** referred to in Article **5(6)** of Regulation (EU) 2020/XXX, and shall communicate a list of those authorities to eu-LISA without delay, in accordance with Article 87(2) of this Regulation. That list shall specify for which purpose the duly authorised staff of each authority shall have access to the data in the ETIAS Information System in accordance with paragraphs 1, 2 and 4 of this Article.

Amendment

5. Each Member State shall designate the competent national authorities referred to in paragraphs 1, 2 and 4 of this Article, and the **authorities** competent **for the screening** referred to in Article **6(7)** of Regulation (EU) 2020/XXX, and shall communicate a list of those authorities to eu-LISA without delay, in accordance with Article 87(2) of this Regulation. That list shall specify for which purpose the duly authorised staff of each authority shall have access to the data in the ETIAS Information System in accordance with paragraphs 1, 2 and 4 of this Article.”

Amendment 195

Proposal for a regulation

Article 18 – paragraph 1 – point 2 a (new)

Regulation (EU) 2018/1240

Article 35 a (new)

Text proposed by the Commission

Amendment

(2a) the following Article is inserted:

“Article 35a

***Tasks of the ETIAS National Unit and
Europol regarding the ETIAS watchlist
for the purpose of the screening
procedure***

1. In cases referred to in the second sub-paragraph of Article 13(4b), the ETIAS Central System shall send an automated notification to the ETIAS National Unit or Europol having entered the data into the ETIAS watchlist. Where the ETIAS National unit or Europol that entered the data into the watchlist consider that the third-country national undergoing the screening could pose a security risk, they shall immediately notify the respective screening authorities and provide a reasoned opinion to the Member State performing the screening, within two days of the receipt of the notification, in the following manner:

(a) the ETIAS national units shall inform the screening authorities through a secure communication mechanism, to be set up by eu-LISA, between the ETIAS National Units on the one part and the screening authorities on the other;

(b) Europol shall inform the screening authorities using the communication channels provided for in Regulation (EU) 2016/794. If no opinion is provided, it shall be considered that there is no security risk."

Amendment 196

Proposal for a regulation

Article 19 – paragraph 1 – point 2

Regulation (EU) 2019/817

Article 20a – title

Text proposed by the Commission

Access to the common identity repository
for identification according to Regulation
(EU) 2020/XXX

Amendment

Access to the common identity repository
for identification according to Regulation
(EU) 2020/XXX ***[Screening Regulation]***

Amendment 197

Proposal for a regulation

Article 19 – paragraph 1 – point 2

Regulation (EU) 2019/817

Article 20a – paragraph 1

Text proposed by the Commission

1. Queries of the CIR shall be carried out by the designated competent authority as defined in Article 6(7) of Regulation (EU) 2020/XXX, solely for the purpose of identifying a person according to Article 10 of that Regulation, provided that the procedure was initiated in the presence of that person.

Amendment

1. Queries of the CIR shall be carried out by the designated competent authority as defined in Article 6(7) of Regulation (EU) 2020/XXX **[Regulation on Screening]**, solely for the purpose of **verifying the identity of a person or** identifying a person according to Article 10 of that Regulation, provided that the procedure was initiated in the presence of that person.

Amendment 198

Proposal for a regulation

Article 20 – paragraph 1

Text proposed by the Commission

[**Three years** after entry into force, the Commission shall report on the implementation of the measures set out in this Regulation.]

Amendment

[**18 months** after entry into force, the Commission shall report on the implementation of the measures set out in this Regulation.]

Amendment 199

Proposal for a regulation

Article 20 – paragraph 2

Text proposed by the Commission

No sooner than [**five**] years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation. The Commission shall present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. Member

Amendment

No sooner than [**three**] years after the date of application of this Regulation, and every five years thereafter, the Commission shall carry out an evaluation of this Regulation. The Commission shall present a Report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. Member

States shall provide the Commission all information necessary for the preparation of that report, at the latest six months before the [five] years' time limit expires.

States shall provide the Commission all information necessary for the preparation of that report, at the latest six months before the [five] years' time limit expires.

Amendment 200

Proposal for a regulation Annex 1 – point 2

Text proposed by the Commission

Amendment

2.Sex:

2.Sex/**gender**:

Amendment 201

Proposal for a regulation Annex 1 – point 5

Text proposed by the Commission

Amendment

5. Nationality/ies (initial indication):

5. Nationality/ies **or statelessness**
(initial indication):

Amendment 202

Proposal for a regulation Annex 1 – point 7

Text proposed by the Commission

Amendment

7. Reason **to perform screening**:

7. Reason **for which the screening was performed**:

A. Irregular entry

A. Irregular entry

Please specify also, as appropriate:

deleted

no/forged/ falsified travel document,

deleted

**no/forged/ falsified visa or travel
authorisation,**

deleted

other

B. Arrival via search and rescue

C. Application for international protection
at a Border Crossing Point

***D. no indication of a border check at an
external border:***

☐ ***no stamp in a travel document/no
entry in the Entry Exit System***

☐ ***no travel document***

deleted

B. Arrival via search and rescue

C. Application for international protection
at a Border Crossing Point

deleted

deleted

deleted

Amendment 203

**Proposal for a regulation
Annex 1 – point 7a new**

Text proposed by the Commission

Amendment

***7a. Has the person applied for
international protection?***

☐ ***Yes*** ☐ ***No***

Amendment 204

**Proposal for a regulation
Annex 1 – point 7b new**

Text proposed by the Commission

Amendment

***7b. Are there family members or
relatives located on the territory of a
Member State?***

☐ ***Yes*** ☐ ***No***

***If yes, please provide details of the
relevant family member(s) or relative(s)
and the relevant Member State***

Amendment 205

Proposal for a regulation Annex 1 – point 9

Text proposed by the Commission

9. Results of the consultation for security purposes:
- ☐ Hit (add databases and reasons)
 - ☐ No Hit

Amendment

9. Results of the consultation for security purposes:
- ☐ Hit (add databases and reasons)
- Where there is a hit***
- ☐ ***Possibly related to internal security***
 - ☐ ***Unrelated to internal security***
 - ☐ No Hit

Amendment 206

Proposal for a regulation Annex 1 – point 9a (new)

Text proposed by the Commission

Amendment

- 9a. Was a preliminary medical examination carried out?***
- ☐ ***Yes*** ☐ ***No***

Amendment 207

Proposal for a regulation Annex 1 – point 11a (new)

Text proposed by the Commission

Amendment

- 11a. Was a preliminary vulnerability, special reception or procedural needs check carried out?***
- ☐ ***Yes*** ☐ ***No***
- If yes, special reception or procedural needs identified:***

☐ **Yes** ☐ **No**

Details of vulnerability, or reception or procedural needs:

Amendment 208

Proposal for a regulation Annex 1 – point 13

Text proposed by the Commission

Amendment

13. Assistance provided for remuneration by third person or organisation in relation to irregular crossing of the border and any related information in case of suspected smuggling:

deleted

Amendment 209

Proposal for a regulation Annex 1 – point 13a (new)

Text proposed by the Commission

Amendment

13a. Screened person indicated incorrect information provided in points 1 to 12:

☐ **Yes** ☐ **No**

If yes, please provide details:

EXPLANATORY STATEMENT

The Rapporteur will present hereafter the main reasons for the amendments presented in the report on the proposal for a Regulation of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulation 2020/0278 (COD) adopted by the Commission in September 2020.

Introduction

Since the appointment of the Rapporteur on 9 November 2020, several exchanges of views took place, including meetings with the shadow Rapporteurs, as well as meetings with external stakeholders. In addition, a LIBE hearing was organised on 27 May 2021.

The Rapporteur shares the overall objective of the Commission to seek to establish quickly the identity of third country nationals, any needs for immediate health care or isolation on public health grounds, vulnerabilities, special reception or procedural needs and potential security risks and refer the persons to the appropriate procedure. The Rapporteur therefore proposes amendments to the Commission's proposal for a Regulation, in order to create an efficient, speedy procedure, which fully respects fundamental rights and ensures legal certainty and strengthens the fundamental rights monitoring mechanism.

The Rapporteur regrets that the Commission did not produce an impact assessment for the proposals, in particular given the potential serious effects on fundamental rights of third-country nationals and the complexity of the migration and asylum system proposed in the New Pact on Migration and Asylum. The Rapporteur would like to express her gratitude to the European Parliamentary Research Service Ex-Ante Impact Assessment Unit and the respective contractors for the work on the horizontal substitute impact assessment on the New Pact on Migration and Asylum. The Rapporteur would also like to express her gratitude to the authors of the study by the European Parliament Policy Department for Citizens' Rights and Constitutional Affairs.

Main elements of the draft report

1. The authorisation to enter the territory of a Member State

The Commission proposed that during the screening the persons subject to the screening should not be authorised to enter the territory of a Member State despite being physically present on the territory of a Member State, regardless of a potential application for international protection (legal fiction of non-entry). The Commission furthermore suggested that certain elements of the current asylum acquis should only take effect after the screening has concluded.

The Rapporteur recalls that in accordance with the existing Asylum Procedure Directive and the proposal for the Asylum Procedure Regulation, applicants for international protection have the right to remain in the Member State pending the examination of the application.

Several stakeholders pointed out that the legal fiction of non-entry would be difficult to apply,

in practice, without the comprehensive use of detention or other forms of de-facto detention or deprivation of liberty. Furthermore, the substitute impact assessment concluded, the proposed indiscriminate non-entry policies make compliance with the guarantees of the Reception Conditions Directive and the Return Directive “impossible”.

Regarding the use of detention, the report introduces amendments to ensure the Reception Conditions Directive also applies *mutatis mutandis* to non-applicants during the screening.

2. Screening within the territory

The Commission proposal included the obligation on Member States to apply the screening also to third-country nationals found within the territory where there is no indication that they have crossed an external border in an authorised manner.

The rapporteur considers this requirement disproportionate for both the subject of the screening and the affected Member State. In addition, the substitute impact assessment concluded that Article 77(2)(b) TFEU as the legal basis proposed for the screening does not allow for the proposed measures. Therefore, the Rapporteur deletes Article 5 and all corresponding references.

3. Requirements concerning the screening

For the screening, the Commission proposed several requirements and elements for the screening, such as an obligation to conduct the screening at or in proximity to the border; to conclude the screening within five days, extendable once by five days in exceptional circumstances; health checks only in specific cases at the discretion of the competent authorities; vulnerability checks only where relevant; identity and security checks; and the provision of information.

The Rapporteur considers that Member States should not be obliged to conduct the screening at or in proximity to the external borders, but should be free to choose any appropriate location within the territory of a Member State.

In addition, to identify potential health issues, vulnerabilities or special reception or procedural needs as early as possible and to further contribute to the correct referral to a subsequent procedure, the Rapporteur introduces amendments to include health and vulnerability checks as mandatory elements of the screening. Additionally, the Rapporteur introduces a new article to ensure special guarantees for unaccompanied minors during the screening, in particular the availability of a representative. Lastly, to ensure the effective provision of information, the Rapporteur introduces amendments to strengthen the likelihood of the person concerned understanding the provided information.

4. The monitoring of fundamental rights

The Commission proposed to introduce an independent monitoring mechanism to ensure compliance with EU and international law during the screening and that Member States adopt relevant provision to investigate allegations of non-respect for fundamental rights.

The Rapporteur explicitly welcomes this proposal by the Commission as a highly relevant and

beneficial addition. In order to strengthen the mechanism and to ensure its independence, the Rapporteur widens the scope of the mechanism beyond the screening procedure and introduces an obligation to involve non-governmental institutions and organisations in the mechanism. In accordance with the recommendation made by the European Data Protection Supervisor (EDPS) and due to the collection of a significant amount of data during the screening, the Rapporteur also considers that the mechanism should establish close links with the EDPS and national data protection authorities.

Moreover, the Rapporteur maintains the obligation on Member States to investigate allegations of non-respect and adds, the mechanism should be able to trigger such investigations and Member States shall provide for penalties for the failure to respect fundamental rights.

5. Outcome of the screening

In its proposal the Commission introduced a de-briefing (screening) form on completion of the screening, which includes the relevant collected data. This form should be referred to the relevant authorities responsible for the potential outcomes of the screening.

The Rapporteur considers it essential that the subject of the screening receives a copy of the screening form before the transmission to the relevant authorities. Furthermore, the Rapporteur stresses the possibility for the Member States to apply during the screening the derogations on entry conditions for third-country nationals as specified in Article 6(5)(c) of the Schengen Borders Code.

6. Access expansion to IT-databases

As part of the identity and security checks, the Commission included in its proposal the possibility to query and access rights for the competent authorities for the screening to the common identity repository (CIR), the Visa Information System (VIS), the Entry/Exit System (EES), and the European Travel Information and Authorisation System (ETIAS).

The Rapporteur agrees that to exercise the identification or verification and security checks the relevant databases should be queried, while at the same time considering issues highlighted by the horizontal impact assessment that this expansion may go “beyond the limits foreseen in relation to law enforcement access to EU migration databases”.

In short, the Rapporteur is not convinced that the provisions granting blanket access rights to the competent authorities and consultation of all proposed databases are necessary to allow for the screening to be carried out effectively. Thus, a number of those provisions have been amended while retaining access to the Common Identity Repository, which is essential to seek to identify or verify the identity of a third-country national in one go.

MINORITY POSITION

Pursuant to Rule 55(4) of the Rules of Procedure

Charlie Weimers, Patryk Jaki, Tom Vandendriessche

There is a need to ensure quick identification of those with genuine reason to apply for international protection and those subject to swift returns. The Commission proposed a tool to this effect - the screening procedure was to introduce a pre-entry process allowing the national authorities at the external border to channel to the appropriate procedure all third country nationals who have crossed the border in an unauthorised manner.

Unfortunately, the Rapporteur's draft proposal altered the Commission proposal to such an extent that it is no longer fit for purpose. If adopted it would make it almost impossible for Member States to effectively combat illegal migration to the EU.

Therefore, we wholly rejected the Rapporteur's proposal for the Screening procedure and welcomed the initial Commission proposal, assuming modifications to the monitoring mechanism to ensure it is fully compatible with the principles of conferral, subsidiarity and proportionality.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817	
References	COM(2020)0612 – C9-0307/2020 – 2020/0278(COD)	
Date submitted to Parliament	25.9.2020	
Committee responsible Date announced in plenary	LIBE 11.11.2020	
Committees asked for opinions Date announced in plenary	AFET 11.11.2020	BUDG 11.11.2020
Not delivering opinions Date of decision	AFET 26.10.2020	BUDG 10.11.2020
Rapporteurs Date appointed	Birgit Sippel 9.11.2020	
Discussed in committee	30.11.2021	
Date adopted	28.3.2023	
Result of final vote	+: 41 -: 17 0: 7	
Members present for the final vote	Abir Al-Sahlani, Konstantinos Arvanitis, Malik Azmani, Pietro Bartolo, Vladimir Bilčík, Malin Björk, Vasile Blaga, Ioan-Rareș Bogdan, Karolin Braunsberger-Reinhold, Saskia Brimont, Annika Bruna, Jorge Buxadé Villalba, Damien Carême, Patricia Chagnon, Lena Düpont, Cornelia Ernst, Laura Ferrara, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Sophia in 't Veld, Patryk Jaki, Marina Kaljurand, Assita Kanko, Fabienne Keller, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Lukas Mandl, Erik Marquardt, Nuno Melo, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Emil Radev, Karlo Ressler, Diana Riba i Giner, Birgit Sippel, Vincenzo Sofo, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Yana Toom, Tom Vandendriessche, Elissavet Vozemberg-Vrionidi, Jadwiga Wiśniewska, Elena Yoncheva	
Substitutes present for the final vote	Damian Boeselager, Beata Kempa, Alessandra Mussolini, Jan-Christoph Oetjen, Carina Ohlsson, Sira Rego, Thijs Reuten, Tomáš Zdechovský	
Substitutes under Rule 209(7) present for the final vote	Isabel Benjumea Benjumea, Othmar Karas, Joachim Kuhs, Aušra Maldeikienė, Daniela Rondinelli, Günther Sidl, Susana Solís Pérez	
Date tabled	14.4.2023	

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

41	+
PPE	Isabel Benjumea Benjumea, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Karolin Braunsberger-Reinhold, Lena Düpont, Othmar Karas, Jeroen Lenaers, Aušra Maldeikienė, Lukas Mandl, Nuno Melo, Alessandra Mussolini, Emil Radev, Karlo Ressler, Tomas Tobé, Elissavet Vozemberg-Vrionidi, Tomáš Zdechovský
Renew	Abir Al-Sahlani, Malik Azmani, Sophia in 't Veld, Fabienne Keller, Moritz Körner, Jan-Christoph Oetjen, Maite Pagazaurtundúa, Susana Solís Pérez, Ramona Strugariu, Yana Toom
S&D	Pietro Bartolo, Maria Grapini, Sylvie Guillaume, Marina Kaljurand, Łukasz Kohut, Juan Fernando López Aguilar, Javier Moreno Sánchez, Carina Ohlsson, Thijs Reuten, Daniela Rondinelli, Günther Sidl, Birgit Sippel, Elena Yoncheva
Verts/ALE	Erik Marquardt

17	-
ECR	Jorge Buxadé Villalba, Patryk Jaki, Assita Kanko, Beata Kempa, Vincenzo Sofo, Jadwiga Wiśniewska
ID	Annika Bruna, Patricia Chagnon, Jean-Paul Garraud, Joachim Kuhs, Annalisa Tardino, Tom Vandendriessche
NI	Laura Ferrara
The Left	Konstantinos Arvanitis, Malin Björk, Cornelia Ernst, Sira Rego

7	0
PPE	Nadine Morano
Verts/ALE	Damian Boeselager, Saskia Bricmont, Damien Carême, Alice Kuhnke, Diana Riba i Giner, Tineke Strik

Key to symbols:

+ : in favour

- : against

0 : abstention