



Council of the
European Union

Brussels, 10 November 2017
(OR. en)

Interinstitutional File:
2016/0106 (COD)

14092/17
ADD 1

CODEC 1762
FRONT 460
VISA 419
COMIX 745

'I/A' ITEM NOTE

From: General Secretariat of the Council
To: Permanent Representatives Committee/Council

Subject: Draft Regulation of the European Parliament and of the Council 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 **(first reading)**
- Adoption of the legislative act
= statements

Statement by the Council and the Commission

The Council and the Commission stress the importance, for the purpose of combatting identity fraud, accurately identifying applicants for international protection and verifying the declarations of the applicants, of enabling the direct access of the asylum authorities concerning the data of third country nationals stored in the EES when examining applications for international protection and determining the Member State responsible for the examination of such applications.

For this reason, both institutions agree that a legal provision should be introduced in order to ensure direct access by the asylum authorities to the EES in the relevant instruments of the asylum package and possible other relevant legislation, in particular the proposal on Asylum Procedure Regulation and Dublin Regulation currently discussed in the Council bodies, or in a future legislative initiative regarding interoperability. In this context, the specific situation of the Schengen and Dublin associated states should be taken into consideration.

Statement by the Commission

The Regulation establishing the Entry Exit System is consistent with the Kaliningrad Transit Scheme provided for in Regulation 693/2003^[1] Council Regulation (EC) 693/2003 of 14 April 2003 establishing a specific Facilitated Transit Document (FTD), a Facilitated Rail Transit Document (FRTD) and amending the Common Consular Instructions and the Common Manual, OJ L99, 17.04.2003, p.8¹as presently designed.

The Commission will ensure the legislative consistency between these legal acts in the event the Kaliningrad Transit Scheme would be amended in the future.

Statement by Austria

Austria appreciates very much the intense efforts undertaken by the Estonian Presidency to achieve broad consensus among Member States in this important issue.

However, there is still an insufficient access to the system for law enforcement authorities for the identification of offending third-country nationals or other persons. Concerning this problem hopefully a solution will be found within the interoperability.

Also the access of asylum authorities to the entry-exit system would have been favorable in light of effective cooperation between asylum authorities in the Member States. Effective use of systems like the EES – which has been negotiated for a long time with many financial and personnel resources - is indispensable. The access of asylum authorities to the EES for reasons of identification of third country nationals as well as for reasons of process facilitation and returns would have constituted the central additional benefit if the EES.

Statement by Belgium

Belgium has always supported the overarching goal to continue to work on the development of the EU's integrated border management strategy, including a better use of the modern technologies to improve management of border controls. The establishment of the Entry-Exit System will contribute to improve the efficiency of border control, by facilitating the border crossings of the majority of travelers while at the same time, the border security will be enhanced.

We therefore welcome the agreement on the Proposal for a Regulation 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 of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) N° 767/2008 and Regulation (EU) N° 1077/2011.

The Entry-Exit System will also provide for a single automated calculator that indicates the maximum authorized duration of stay in the Member States that operate the EES. This will change significantly the way in which the calculation of authorized stay has been conducted until now. Current provisions of the Schengen *acquis* that are relevant to the calculation of the authorized stay give other indications on the way the authorized stay should be calculated.

In order to have a coherent approach on the calculation of the authorized stay, Belgium would like to call on the European Commission to examine all related provisions of the Schengen *acquis* and to propose amendments where necessary. In that way, a coherent and clear legal framework can be ensured from the moment the Entry-Exit System will enter into operation.