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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	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 - Outcome of the European Parliament's first reading (Brussels, 10 to 11 April 2024)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the Joint declaration on practical arrangements for the codecision procedure¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this file at first reading.

In this context, the Chair of the Committee on Civil Liberties, Justice and Home Affairs (LIBE) Juan Fernando LÓPEZ AGUILAR (S&D, ES) presented on behalf of LIBE a compromise amendment (amendment number 210) to the abovementioned proposal for a Regulation, for which Birgit SIPPEL (S&D, DE) had prepared a draft report. This amendment had been agreed during the informal contacts referred to above. In addition, the ID political group tabled 6 amendments (amendments number 211-217).

¹ OJ C 145, 30.6.2007, p. 5.

II. VOTE

When it voted on 10 April 2024, the plenary adopted the compromise amendment (amendment number 210) to the abovementioned proposal for a Regulation. No other amendments were adopted. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in *bold and italics*. The symbol "■" indicates deleted text.

P9_TA(2024)0181

Screening of third country nationals at the external borders

European Parliament legislative resolution of 10 April 2024 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 the opinion of the European Economic and Social Committee of 25 February 2021¹,
- having regard to the opinion of the Committee of the Regions of 19 March 2021²,
- having regard to the provisional agreement approved by the committee responsible under Rule 74(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 8 February 2024 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union,

¹ OJ C 155, 30.4.2021, p. 58.

² OJ C 175, 7.5.2021, p. 32.

- 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.

Position of the European Parliament adopted at first reading on 10 April 2024 with a view to the adoption of Regulation (EU) 2024/... of the European Parliament and of the Council introducing the 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

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2), points (b) and (d), thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee¹,

Having regard to the opinion of the Committee of the Regions²,

Acting in accordance with the ordinary legislative procedure³,

¹ OJ C 155, 30.4.2021, p. 58.

² OJ C 175, 7.5.2021, p. 32.

³ Position of the European Parliament of 10 April 2024.

Whereas:

- (1) The Schengen area was created to achieve ■ an area without internal *borders* 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 that area relies on mutual trust between the Member States and efficient management of the external border.

(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 Council⁴. ***Despite the border surveillance measures that are applied, Member States could be faced with unauthorised border crossings by third-country nationals avoiding border checks.*** 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 Article 77(1) of the Treaty on the Functioning of the European Union (TFEU), additional measures should address situations where third-country nationals ***are apprehended in connection with an unauthorised crossing of*** the external borders, ■ where third-country nationals are disembarked following search and rescue ***operations, and where*** third-country nationals ***make an application for*** international protection at a border crossing point without fulfilling entry conditions. This Regulation complements Regulation (EU) 2016/399 with regard to those situations. It is essential to ensure that, in those situations, third-country nationals are screened, in order to facilitate a proper identification and to allow for them to be referred efficiently to the ***appropriate*** procedures which, depending on the circumstances, ***might be the procedure*** for international protection or procedures respecting Directive 2008/115/EC of the European Parliament and of the Council⁵. The screening of such third-country nationals should seamlessly complement the checks carried out at the external border or compensate for the fact that those checks have ***not taken place*** when crossing the external border.

⁴ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 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).

⁵ 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).

- (3) 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 that have abolished internal border control. Border control should help to *reduce* illegal migration, *to combat the smuggling* and trafficking of human beings, and to prevent any threat to the Member States' internal security, public policy, public health and international relations. *When carrying out border control, Member States are to 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, with obligations related to international protection, in particular the principle of non-refoulement, and with fundamental rights.* As such, measures taken at the external borders are important elements of a comprehensive approach to migration, allowing Member States to address the challenge of mixed arrivals of *irregular* migrants and persons *in need of* international protection.

- (4) According to 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 ***border crossing not authorised under that Regulation or from*** circumventing border checks. Pursuant to the provisions on border surveillance in 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 is to be apprehended and made subject to procedures respecting Directive 2008/115/EC. Pursuant to Regulation (EU) 2016/399, border control is to be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards *non-refoulement*.
- (5) Border guards are often ***faced*** 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 border guards are ***faced*** with large numbers of arrivals at the same time. In such circumstances, it is particularly difficult ***and important*** to ensure that all relevant databases are consulted and to ■ determine the appropriate ■ procedure ***as quickly as possible***.

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- (6) In particular, the screening of third-country nationals should *contribute to ensuring* that they are referred to the appropriate procedures at the earliest stage possible and that those procedures are continued without interruption or 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.
- (7) The screening of third-country nationals who apply for international protection, should be followed by an examination of the need for international protection. It should enable the collection and sharing with the authorities competent for that examination of any information that is relevant for the latter to identify the appropriate procedure for the examination of the application *without prejudging the type of procedure*, thus speeding up that examination. The screening should also *contribute to identifying vulnerable persons* so that any special █ needs are fully taken into account in the determination of and the pursuit of the applicable procedure.

- (8) The obligations *on Member States* stemming from this Regulation should be without prejudice to Regulation (EU) 2024/... of the European Parliament and of the Council⁶⁺.
- (9) This Regulation should apply to third-country nationals and stateless persons *regardless of whether they have made an application for international protection* who 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 concerned is not required to take the biometric data pursuant to Regulation (EU) 2024/... of the European Parliament and of the Council⁷⁺⁺ 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 Regulation (EU) 2016/399. For those third-country nationals* who have been disembarked following search and rescue operations, *the application of this Regulation should be without prejudice to the obligations of Member States according to international law regarding search and rescue operations*. This Regulation should also apply to those persons who seek international protection at the border crossing points or in transit zones without fulfilling the entry conditions *or where third-country nationals, after having been authorised to enter pursuant to Regulation (EU) 2016/399* on humanitarian grounds, on grounds of national interest or because of international obligations, *make an application for international protection*.

⁶ Regulation (EU) 2024/... of the European Parliament and of the Council of ... on asylum and migration management, amending Regulations (EU) 2021/1147, and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013 (OJ L, ..., ELI:...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

⁷ Regulation (EU) 2024/... of the European Parliament and of the Council of ... on the establishment of 'Eurodac' for the comparison of biometric data in order to effectively apply Regulations (EU) 2024/... and (EU) 2024/... of the European Parliament and of the Council and Council Directive 2001/55/EC and to identify an illegally staying third-country national or stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, amending Regulations (EU) 2018/1240 and (EU) 2019/818 of the European Parliament and of the Council and repealing Regulation (EU) No 603/2013 of the European Parliament and of the Council (OJ L, 2024/..., ..., ELI: ...).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)) and insert the number, date and OJ reference of that Regulation in the footnote, as well as the number of the Regulations contained in document PE-CONS 21/24 (2020/0279(COD)) and in document PE-CONS 18/24 (2016/0225(COD)), respectively, in the title in the footnote.

- (10) *The screening should be conducted at any adequate and appropriate location designated by each Member State, generally situated at or in proximity to the external border or, alternatively, in other locations within the territory, taking into account geography and existing infrastructures, ensuring that the screening can be carried out without delay. The screening of third-country nationals illegally staying within Member States' territory who have crossed an external border to enter the territory of the Member States in an unauthorised manner and who have not been already subjected to the screening in a Member State, should be conducted at any adequate and appropriate location designated by each Member State within its territory.*
- (11) *Third-country nationals subject to the screening should remain available to the screening authorities during the screening. Member States should lay down in their national law provisions to ensure the presence of those third-country nationals during the screening in order to prevent absconding. Where 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. Detention should only be applied as a measure of last resort in accordance with the principles of necessity and proportionality and should be subject to an effective remedy, in line with national, Union and international law. The relevant provisions of Directive (EU) 2024/... of the European Parliament and of the Council⁸⁺, for applicants for international protection, and the relevant rules on detention set out in Directive 2008/115/EC, for third-country nationals who have not made an application for international protection, should apply during the screening.*
- (12) Wherever it becomes clear during the screening that a third-country national subject to such screening fulfils the entry conditions for third-country nationals laid down in 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 for the unauthorised crossing of external borders at places other than border crossing points or at times other than the fixed opening hours as referred to in that

⁸ Directive (EU) 2024/... of the European Parliament and of the Council of ... laying down the standards for the reception of applicants for international protection (OJ L, 2024/..., ..., ELI: ...).

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)) and insert the number, date, title, OJ reference and ELI reference of that Directive in the footnote.

Regulation.

- (13) In view of the purpose of the derogations from the entry conditions for third-country nationals established by Regulation (EU) 2016/399, persons whose entry has been authorised by a Member State in accordance with such derogations under that Regulation in an individual decision should not be subjected to the screening even if they do not fulfil all entry conditions, ***unless they make an application for international protection.***
- (14) All third-country nationals subject to the screening should be submitted to checks, in order to ***identify or verify*** their identity and to ***verify whether*** they ***might*** pose a threat to internal security or public health. In the case of persons ***making an application for*** 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 of checks.

- (15) On completion of the screening, the third-country nationals concerned should either be referred to the **authorities competent for registering the** application for international protection or be made subject to procedures respecting Directive 2008/115/EC, 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. **Where necessary, the checks established by this Regulation should be continued by the respective competent authorities within the ensuing procedure.** The procedures established by Directive 2008/115/EC should start to apply only after the screening has ended. The provisions on the registration of applications for international protection of Regulation 2024/... of the European Parliament and of the Council⁹⁺ should apply only after the screening has ended. That 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 **for international protection and Regulation (EU) 2024/...⁺⁺ and Directive (EU) 2024/...⁺⁺⁺ should apply to them.**

⁹ Regulation (EU) .../... of the European Parliament and of the Council of ... establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (OJ L, ..., ELI:...).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)) and insert the number, date and OJ reference of that Regulation in the footnote.

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

⁺⁺⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

- (16) *Persons applying for international protection to whom Member States are not able to apply or are no longer able to apply an asylum border procedure in accordance with the provision on the exceptions to the asylum border procedure in Regulation (EU) 2024/...⁺ should, as a rule, be authorised to enter the territory.*
- (17) The screening could also be followed by relocation under the mechanism for solidarity established by Regulation (EU) 2024/...⁺⁺ *or another existing solidarity mechanism.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

(18) In accordance with the presumption as regards fulfilment of conditions of duration of stay laid down in 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 might 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 established by Regulation (EU) 2017/2226 of the European Parliament and of the Council¹⁰ (EES) leading to substitution of the stamps with an entry in the EES, that presumption will become more reliable. Member States should therefore carry out the screening of third-country nationals who are already within their 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 the screening. Carrying out 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 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. Third-country nationals should not be subjected to repeated screenings.

¹⁰ 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).

- (19) *Member States should be able to refrain from carrying out the screening within the territory if a third-country national staying illegally on their territory is sent back, immediately after apprehension, to another Member State under bilateral agreements or arrangements or under bilateral cooperation frameworks. In that case, the Member State to which the third-country national concerned has been sent back should carry out the screening without delay.*
- (20) *This Regulation is without prejudice to provisions of national law covering the identification of third-country nationals suspected of staying in a Member State illegally where such identification is in order to research, within a brief but reasonable time, the information enabling the determination of the illegality or legality of the stay.*
- (21) *Without prejudice to the rules on border control applicable at the internal borders of the Member States where a decision to lift such controls has not yet been taken, the screening of third country nationals apprehended in connection with an unauthorised crossing of such internal borders where the controls have not yet been lifted should follow the rules established by this Regulation for the screening within the territory and not the rules established for the screening at the external border.*

- (22) The screening at the external border should be completed as soon as possible, and should not exceed seven days. The screening within the territory should be completed as soon as possible, and should not exceed three days. Member States should not be prevented from completing the screening at the external border and the screening within the territory in shorter periods, provided that the checks provided for in this Regulation are carried out.
- (23) *The screening is part of the European integrated border management. The Instrument for Financial Support for Border Management and Visa Policy, established, as part of the Integrated Border Management Fund, by Regulation (EU) 2021/1148 of the European Parliament and of the Council¹¹, in particular can be mobilised to provide support to Member States' actions falling under this Regulation, in line with the rules governing the use of that Instrument and without prejudice to other priorities underpinned by it.*

¹¹ Regulation (EU) 2021/1148 of the European Parliament and of the Council of 7 July 2021 establishing, as part of the Integrated Border Management Fund, the Instrument for Financial Support for Border Management and Visa Policy (OJ L 251, 15.7.2021, p. 48).

(24) In order to achieve the objectives of the screening, **a stronger framework for** close cooperation should be ensured between the competent national authorities referred to in the provision on implementation of control of Regulation (EU) 2016/399, the authorities **responsible for asylum procedures and reception of applicants**, the authorities **responsible for the protection of public health** and the authorities responsible for carrying out return procedures respecting Directive 2008/115/EC. Member States should be allowed to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency established by Regulation (EU) 2019/1896 of the European Parliament and of the Council¹² (the ‘European Border and Coast Guard Agency’) and the European Union Agency for Asylum established by Regulation (EU) 2021/2303 of the European Parliament and of the Council¹³ (the ‘European Union Agency for Asylum’), within the limits of their mandates. Member States should involve national child protection **authorities and national authorities in charge of detecting and identifying victims of** trafficking in human beings wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council¹⁴.

¹² 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).

¹³ 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).

¹⁴ 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, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.4.2011, p. 1).

(25) *During the screening, 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 or, where a representative has not been appointed, a person trained to safeguard the best interests and general wellbeing of the minor should be designated. Where applicable, that representative should be the same as the representative appointed in accordance with the rules on unaccompanied minors in Directive (EU) 2024/...⁺. The trained person should be the person designated to provisionally act as a representative under that Directive, where that person has been designated.*

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

- (26) When ***applying this Regulation, the Member States*** should ensure the respect for human dignity and should not discriminate against persons on grounds of sex, race, 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.
- (27) In order to ensure compliance with Union and international law, including the Charter, during the screening, each Member State should ***provide for*** a monitoring mechanism and put in place adequate safeguards for the independence thereof, ***such as respect of the Paris Principles, adopted by the United Nations General Assembly Resolution 48/134 of 20 December 1993, of the Venice Principles, adopted by the Venice Commission at its 118th Plenary Session of 15-16 March 2019, the United Nations General Assembly Resolution of 28 December 2020 on the role of the Ombudsman and mediator institutions in the promotion and protection of human rights, good governance and the rule of law, and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 18 December 2002 at the fifty-seventh session of the General Assembly of the United Nations by resolution A/RES/57/199 (“OPCAT”).*** For that purpose, Member States should be able to have recourse to already existing national fundamental rights monitoring mechanisms in accordance with the requirements set out in this Regulation. The monitoring mechanism provided for by each Member State should cover in particular respect for fundamental rights in relation to the screening, as well as the respect for the applicable ***Union and*** national rules regarding detention and compliance with the principle of *non-refoulement*. The European Union Agency for Fundamental Rights established by Council Regulation (EC) No 168/2007¹⁵ (the ‘Fundamental Rights Agency’) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanisms. 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 their national 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

¹⁵ Council Regulation (EC) No 168/2007 of 15 February 2007 establishing a European Union Agency for Fundamental Rights (OJ L 53, 22.2.2007, p. 1).

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 monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System as set out in Regulation (EU) 2021/2303, the evaluation and monitoring mechanism established by Council Regulation (EU) 2022/922¹⁶ and monitoring carried out by existing national or international monitoring bodies*. 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.

¹⁶ 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).

- (28) *Member States should equip the independent monitoring mechanism with appropriate financial means.*
- (29) *The mere existence of judicial remedies in individual cases or national systems that supervise the efficiency of the screening is not sufficient to comply with the requirements concerning the monitoring of fundamental rights under this Regulation.*
- (30) *The screening* ■ *authorities should fill in a* **screening** *form. The form should be transmitted* **by any appropriate means, including digital tools**, *to the authorities* **registering** *applications for international protection or to the authorities competent for return* **procedures**, *depending* **to** *whom the* **person** *is referred.*
- (31) *This Regulation should be without prejudice to actions undertaken in accordance with national law with a view to establishing the identity of the person concerned or assessing possible threats to internal security.*

- (32) *The information in the screening form should be recorded in such a way that it is amenable to administrative and judicial review during any ensuing asylum or return procedure. The person subject to the screening should have the possibility to indicate to the screening 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.*
- (33) *Information contained in the screening form should be made available either on paper or in an electronic format to the person concerned, with the exception of the information related to the consultation of relevant databases for security checks. In the case of minors, the information contained in the screening form should be provided to the adult or adults responsible for the child. In the case of unaccompanied minors, the information contained in the screening form should be provided to the representative of the child or the person trained to safeguard the best interests and general well-being of the minor.*

(34) *The processing of data during the screening procedure should always be carried out in accordance with the applicable Union data protection law, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council¹⁷.*

(35) The biometric data taken during the screening should, together with the data referred to in the provisions on the collection and transmission of biometric data of applicants for international protection, of third-country nationals or stateless persons apprehended in connection with the irregular crossing of an external border, of third-country nationals or stateless persons illegally staying in a Member State and of third-country nationals or stateless persons disembarked following a search and rescue operation of Regulation (EU) 2024/...⁺, be transmitted to Eurodac established by that Regulation ('Eurodac') by the competent authorities in accordance with the deadlines provided for in that Regulation.

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(36) *Third-country nationals subjected to the screening should be subject to a preliminary health check by qualified medical personnel with a view to identifying any needs for health care or isolation on public health grounds. Qualified medical personnel should be able to decide, based on the medical circumstances concerning the general state of each individual third-country national, that no further health check during the screening is necessary. That preliminary health check should be carried out by qualified medical personnel belonging to one of the following categories of the ISCO-08 classification of the International Standard Classification of Occupations under the responsibility of the International Labour Organization: 221 Medical Doctors, 2221 Nursing Professionals, or 2240 Paramedical Practitioners.*

¹⁷ 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).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

(37) *A preliminary vulnerability check should be carried out with a view to identifying persons with indications of being vulnerable, of being victims of torture or other inhuman or degrading treatment, or of being stateless, or who may have special reception or procedural needs within the meaning of Directive (EU) 2024/...⁺ and Regulation (EU) 2024/...⁺⁺, respectively. This should be without prejudice to further assessment in ensuing procedures following the completion of the screening. The vulnerability check should be carried out by specialised personnel of the screening authorities trained for that purpose.*

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

- (38) 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 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 the 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 **report any situation of vulnerabilities observed or reported to them**, should respect human dignity and privacy, and should refrain from any discrimination.
- (39) Since third-country nationals subject to the screening might not **have** the necessary identity and travel documents required for the legal crossing of the external border, an identification **or verification** procedure should be **carried out** as part of the screening.

(40) The Common Identity Repository (CIR) was established by Regulations (EU) 2019/817¹⁸ and (EU) 2019/818¹⁹ of the European Parliament and of the Council to facilitate and assist in the correct identification of persons to facilitate and assist in the correct identification of persons registered in the EES, the Visa Information System established by Council Decision 2004/512/EC²⁰ (VIS), the European Travel Information and Authorisation System established by Regulation (EU) 2018/1240 of the European Parliament and of the Council²¹ (ETIAS), Eurodac and the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons established by Regulation (EU) 2019/816 of the European Parliament and of the Council²² (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 the 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 identification *or verification of identity* 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 the

¹⁸ 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).

¹⁹ 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 and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).

²⁰ Council Decision 2004/512/EC of 8 June 2004 establishing the Visa Information System (VIS) (OJ L 213, 15.6.2004, p. 5).

²¹ 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).

²² 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).

unnecessary processing or duplication of data.

- (41) In order to establish *the identity or to verify* the identity of the person subject to the screening, a verification should be initiated in the CIR in the presence of that 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 those data fails *or returns no hits*, the query could be carried out with the identity data of the person in combination with travel document data, where such data are available, *or with data or information provided by or obtained from the third-country national concerned*. 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 contains the data.

- (42) Since the use of the CIR for identification purposes has been limited by Regulations (EU) 2019/817 **and (EU) 2019/818** to facilitating and assisting in the correct identification of persons registered in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in situations of police checks within the territory of the Member States, **those Regulations** need to be amended to provide for the additional purpose of using the CIR to identify **or verify the identity of** persons during the screening. **In the case of Regulation (EU) 2019/818, such amendment should for reasons of variable geometry take place through a different Regulation than this Regulation.**
- (43) Given that many persons submitted to the screening might not **have** any travel documents, the screening authorities 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.

- (44) The identification *or verification of identity* 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 *or within the territory* 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. *The taking of biometric data for the purpose of both identification or verification of identity and the registration in accordance with the requirements of Regulation (EU)2024/...⁺ should take place once as part of the screening.*
- (45) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission, enabling it to set out the detailed procedure and specifications for retrieving data and to specify the procedure for cooperation between the authorities responsible for carrying out the screening, Interpol National Central Bureaux *and* Europol national units, respectively, to determine the *threat* to internal security. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²³.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD))

²³ 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 powers (OJ L 55, 28.2.2011, p. 13).

- (46) The screening should also verify whether the entry of the third-country nationals concerned into the Union *might* pose a threat to internal security ■ .
- (47) As the screening concerns *third-country nationals* present at the external border without fulfilling entry conditions, ■ *third-country nationals* disembarked after a search and rescue operation without fulfilling entry conditions, *and third-country nationals illegally staying within the territory of Member States*, 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 *who* apply ■ beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.

- (48) For third-country nationals who are exempt on the basis of their nationality from the visa requirement under Regulation (EU) 2018/1806 of the European Parliament and the Council²⁴, Regulation (EU) 2018/1240 provides that they have to apply for a travel authorisation to come to the Union for a short stay. Before receiving that travel authorisation, the persons concerned are submitted to security checks of the personal data they submit against a number of Union databases, namely VIS, the Schengen Information System established by Regulations (EU) 2018/1860²⁵, (EU) 2018/1861²⁶ and (EU) 2018/1862²⁷ of the European Parliament and the Council (SIS), the EES, ETIAS, the Europol data processed for the purpose of cross-checking as referred to in Regulation (EU) 2016/794 of the European Parliament and the Council²⁸, ECRIS-TCN,¹ as well as Interpol's Stolen and Lost Travel Document database (SLTD) and Travel Documents Associated with Notices database (TDAWN). Third-country nationals who are subject to the visa requirement under Regulation (EU) 2018/1806 are submitted to security checks before a visa is issued, against the same databases as third-country nationals not subject to that visa requirement, pursuant to Regulations (EC) No 810/2009²⁹ and (EC) No

²⁴ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39).

²⁵ Regulation (EU) 2018/1860 of the European Parliament and of the Council of 28 November 2018 on the use of the Schengen Information System for the return of illegally staying third-country nationals (OJ L 312, 7.12.2018, p. 1).

²⁶ Regulation (EU) 2018/1861 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

²⁷ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

²⁸ Regulation (EU) 2016/794 of the European Parliament and the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

²⁹ Regulation (EC) No 810/2009 of the European Parliament and the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

767/2008³⁰ of the European Parliament and the Council.

- (49) As regards persons subject to the screening, automated verifications for security purposes should be carried out against the same systems as provided for applicants for a visa, a long-stay visa, a residence permit under VIS or a travel authorisation under ETIAS, namely VIS, the EES, ETIAS, **including the ETIAS watchlist referred to in Regulation (EU) 2018/1240**, SIS, ECRIS-TCN as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences, **Europol** data processed for the purpose of cross-checking as referred to in Regulation (EU) 2016/794, SLTD and TDAWN.

³⁰ Regulation (EC) No 767/2008 of the European Parliament and 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).

- (50) *The consultation of the relevant databases for security purposes* should be 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 *made an application for* international protection at a border crossing point *or in transit zones*, 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.
- (51) Where justified, ■ 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 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.

- (52) Since access to the EES, ETIAS, VIS and ECRIS-TCN is necessary for the *screening* authorities in order to verify whether the person *might* pose a threat to internal security, Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and Regulation (EU) 2019/816 should be amended to provide for that access right, which is currently not provided by those Regulations. In the case of Regulation (EU) 2019/816, such amendment should for reasons of variable geometry take place through a different Regulation than this Regulation.
- (53) The European search portal established by Regulation (EU) 2019/817 (ESP) should be used to carry out the searches against the *CIR for identification or verification of identity*.

- (54) *It should be possible for the screening authorities to use the ESP to carry out the searches against the EES, ETIAS, VIS, SIS and ECRIS-TCN, Europol data, SLTD and TDAWN, for the purpose of security checks, as applicable.*
- (55) *The consultation of Union databases for the purposes of identification or verification of identity or of security checks can be justified for the effective implementation of the screening and for achieving the same objective for which each of those databases has been established, namely the effective management of the Union's external borders in the context of the European integrated border management.*
- (56) *In the event of a hit for the purposes of identification or verification of identity or of a security check, the screening authority should verify that data recorded in EU information systems or Europol data correspond to the data triggering a hit.*
- (57) *It should also be possible for the screening authorities to check the relevant national databases in the context of identification or verification of identity or of security checks in accordance with national law.*

- (58) *For the purposes of complying with the obligation to perform identification or verification of identity and security checks during the screening, Member States who do not yet apply some provisions of the Schengen acquis in full and do not therefore have access to all EU information systems and Union databases are responsible for performing identity and security checks by carrying out searches only in those systems and databases to which they have access.*
- (59) Since the objectives of this Regulation, namely *to strengthen* the control of *third-country nationals crossing the external borders* and *to provide for* the identification or *verification of identity of all third-country nationals subject to the screening and for the consultation of relevant databases in order to verify whether the third-country nationals subject to the screening might pose a threat to internal security and contribute to* their referral to the appropriate procedures, cannot be sufficiently achieved by *the* Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 TEU. 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.

- (60) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (61) This Regulation constitutes a development of the provisions of the Schengen *acquis*, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC³¹. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

³¹ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

- (62) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC³².
- (63) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC³³.

³² Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

³³ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

- (64) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU³⁴.
- (65) As regards Cyprus, this Regulation constitutes an act building upon, or otherwise related to, the Schengen *acquis* within the meaning of Article 3(1) of the 2003 Act of Accession.

³⁴ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

(66) *As regards Cyprus, Council Regulation (EC) No 866/2004³⁵ provides for specific rules that apply to the line between the areas of the Republic of Cyprus in which the Government of the Republic of Cyprus exercises effective control and those areas in which the Government of the Republic of Cyprus does not exercise effective control. Under this Regulation, although that line does not constitute an external border, checks are to be carried out on all persons crossing the line through an authorised or unauthorised crossing point with the aim to combat illegal immigration of third-country nationals and to detect and prevent any security risk. It follows that the screening at the external border may also apply to third-country nationals who are apprehended in connection with an unauthorised crossing of that line and to those who have made an application for international protection at the authorised crossing points.*

³⁵ Council Regulation (EC) No 866/2004 of 29 April 2004 on a regime under Article 2 of Protocol 10 to the Act of Accession (OJ L 161, 30.4.2004, p. 128).

(67) *Denmark, Norway, Iceland, Switzerland, and Liechtenstein are not bound by Directive (EU) 2024/...⁺. In those States the reception conditions for applicants for international protection are regulated by relevant national legislation based on the application of the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967. As regards those States, references made in this Regulation to that Directive should be understood as references to corresponding provisions in national law,*

HAVE ADOPTED THIS REGULATION:

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

Article 1
Subject matter

This Regulation establishes:

- (a) the screening at the external borders of the Member States *of third-country nationals* who, *without fulfilling the entry conditions set out in Article 6 of Regulation (EU) 2016/399*, have crossed the external border in an unauthorised manner, have applied for international protection during border checks, *or have been* disembarked after a search and rescue operation, before they are referred to the appropriate procedure, *and*
- (b) *the screening of third-country nationals illegally staying within the territory of the Member States where there is no indication that those third-country nationals have been subject to controls at external borders*, before they are referred to the appropriate procedure.

The objective of the screening shall be to strengthen the control of third-country nationals crossing the external borders, to identify all third-country nationals subject to the screening and to check against the relevant databases whether the persons subject to the screening might pose a threat to internal security. The screening shall also entail preliminary health and vulnerability checks to identify persons in need of health care and persons that might pose a threat to public health, and to identify vulnerable persons. Such checks shall facilitate the referral of such persons to the appropriate procedure.



This Regulation also provides for an independent monitoring mechanism in each Member State to monitor compliance with Union and international law, including the Charter of Fundamental Rights of the European Union (the ‘Charter’), during the screening.

Article 2
Definitions

For the purposes of this Regulation, the following definitions apply:

■

- (1) ‘threat to public health’ means ‘threat to public health’ ■ as defined in Article 2, point (21), of Regulation (EU) 2016/399;
- (2) ‘verification’ means ‘verification’ as defined *in Article 4, point (5), of Regulation (EU) 2019/817*;
- (3) ‘identification’ means ‘identification’ as defined *in Article 4, point (6), of Regulation (EU) 2019/817*;
- (4) ‘third-country national’ means ‘third-country national’ as defined in Article 2, point (6), of Regulation (EU) 2016/399;

- (5) *‘stateless person’ means a person who is not considered as a national by any State under the operation of its law;*
- (6) *‘Europol data’ means ‘Europol data’ as defined in Article 4, point (16), of Regulation (EU) 2019/817;*
- (7) *‘representative’ means a natural person or an organisation, including a public authority, appointed by the competent authorities or bodies to represent, assist and act, as applicable, on behalf of an unaccompanied minor;*
- (8) *‘biometric data’ means ‘biometric data’ as defined in Article 4, point (11), of Regulation (EU) 2019/817;*
- (9) *‘minor’ means a third-country national or stateless person below the age of 18 years;*

- (10) *‘screening authorities’ means all competent authorities designated by national law to carry out one or more of the tasks under this Regulation, except for the health checks referred to in Article 12(1);*
- (11) *‘unaccompanied minor’ means a minor who arrives on the territory of the Member State unaccompanied by an adult responsible for him or her, whether by the law or practice of the Member State concerned, and for as long as 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;*
- (12) *‘detention’ means the confinement of a person by a Member State within a particular place, where such person is deprived of freedom of movement;*
- (13) *‘Interpol databases’ means ‘Interpol databases’ as defined in Article 4, point (17), of Regulation (EU) 2019/817;*
- (14) *‘search and rescue operation’ means an operation of search and rescue as referred to in the International Convention on Maritime Search and Rescue adopted in Hamburg, Germany, on 27 April 1979.*

Article 3

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 Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967, with the obligations related to access to international protection, in particular the principle of non-refoulement, and with fundamental rights.

Article 4

Relation with other legal instruments

1. ***For third-country nationals subject to the screening who have made an application for international protection:***
 - a) ***the registration of the application for international protection made in accordance with Regulation (EU) 2024/...⁺ shall be determined by Article 27 of that Regulation; and***
 - b) ***the application of the common standards for the reception of applicants for international protection of Directive (EU) 2024/...⁺⁺ shall be determined by Article 3 of that Directive.***

2. ***Without prejudice to Article 8(7) of this Regulation, Directive 2008/115/EC or national provisions respecting Directive 2008/115/EC shall apply only after the screening has ended, except for the screening referred to in Article 7 of this Regulation, where that Directive or national provisions respecting that Directive shall apply in parallel with the screening referred to in Article 7 of this Regulation.***

Article 5

Screening at the external border

1. ***The screening provided for under this Regulation shall apply to all third-country nationals, regardless of whether they have made an application for international protection, who do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399 and who:***
 - (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 concerned is not required to take the biometric data pursuant to Article 22(1) and (4) of Regulation (EU) 2024/...⁺ for reasons other than their age, or

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

⁺⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

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

2. The screening *provided for under this Regulation* shall apply to all third-country nationals who *have made an application* for international protection at external border crossing points or in transit zones and who do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399.

3. *Third-country nationals who have been authorised to enter pursuant to Article 6(5) of Regulation (EU) 2016/399 shall not be subject to the screening. However, third-country nationals who are authorised to enter pursuant to Article 6(5)(c) of that Regulation and who make an application for international protection shall be subject to the screening.*

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 of that third-country national shall end.

The screening may be discontinued where the third-country nationals concerned leaves the territory of the Member States, for their country of origin or country of residence or for another third country to which the third-country nationals concerned voluntarily decide to return and where the return of those third-country nationals is accepted.

Article 6

Authorisation to enter the territory of a Member State

During the screening, the persons referred to in Article 5(1) and (2) shall not be authorised to enter the territory of a Member State. ***Member States shall lay down in their national law provisions to ensure that persons referred to in Article 5(1) and (2) remain available to the authorities responsible for carrying out the screening in the locations as referred to in Article 8, for the duration of the screening, to prevent any risk of absconding, potential threats to internal security resulting from such absconding or potential threats to public health resulting from such absconding.***

Article 7

Screening within the territory

1. Member States shall carry out the screening of third-country nationals *illegally staying* within their territory *only* where ■ such third-country nationals have crossed an external border to enter the territory of the Member States in an *unauthorised* manner *and have not already been subjected to the screening in a Member State. Member States shall lay down in their national law provisions to ensure that those third-country nationals remain available to the authorities* responsible for carrying out the screening *for the duration of the screening, to prevent any risk of absconding and potential threats to internal security resulting from such absconding.*
2. *Member States may refrain from carrying out the screening in accordance with paragraph 1 if a third-country national staying illegally on their territory is sent back, immediately after apprehension, to another Member State under bilateral agreements or arrangements or under bilateral cooperation frameworks. In that case, the Member State to which the third-country national concerned has been sent back shall carry out the screening.*
3. Article 5(3), second and third subparagraphs shall apply to the *screening in accordance with paragraph 1 of this Article.*

Article 8

Requirements concerning the screening

1. In the *cases referred* to in Article 5, the screening shall be conducted at *any adequate and appropriate* location *designated by each Member State, generally* situated at or in proximity to the external borders *or, alternatively, in other locations within its territory*.
2. In the cases referred to in Article 7, the screening shall be conducted at any *adequate and appropriate* location *designated by each Member State* within the territory of a Member State.
3. In the cases referred to in Article 5 of this Regulation, the screening shall be carried out without delay and in any case be completed within *seven* 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 5(1), point (a), of this Regulation to whom Article 23(1) and (4) of Regulation (EU) 2024/...⁺ applies, where *those persons* remain physically at the external border for more than 72 hours, the *screening of them shall be carried out thereafter and the* period for the screening shall be reduced to *four* days.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

4. The screening referred to in Article 7 shall be carried out without delay and be completed within three days from apprehension of the third-country national.
5. The screening shall comprise the following **■** elements:
 - (a) *a preliminary health check in accordance with Article 12;*
 - (b) *a preliminary* vulnerability check in accordance with Article 12;
 - (c) identification *or verification of identity* in accordance with Article 14;
 - (d) the registration of biometric data in *accordance with [Articles 15, 22 and 24 of Regulation (EU) 2024/...⁺*, to the extent that it has not yet occurred;
 - (e) *a* security check in accordance with Articles 15 and 16;
 - (f) the filling out of a *screening* form in accordance with Article 17;
 - (g) referral to the appropriate procedure in accordance with Article 18.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

6. *Organisations and persons providing advice and counselling shall have effective access to third-country nationals during the screening. Member States may impose limits to such access by virtue of national law where such limits are objectively necessary for the security, public order or administrative management of a border crossing point or of a facility where the screening is carried out, provided that such access is not severely restricted or rendered impossible.*
7. *The relevant rules on detention set out in Directive 2008/115/EC shall apply during the screening in respect of third-country nationals who have not made an application for international protection.*
8. *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.*
9. Member States shall designate *screening* authorities *and ensure that the staff of those authorities who* carry out the screening *have the appropriate knowledge and have received the necessary training in accordance with Article 16 of Regulation (EU) 2016/399.*

Member States shall ***ensure that*** qualified medical ***personnel carry*** out the ***preliminary*** health check provided for in Article 12 ***and that specialised personnel of the screening authorities trained for that purpose carry out the preliminary vulnerability check provided for in that Article.*** National child protection authorities and national ***authorities in charge of detecting and identifying victims of*** trafficking in human beings ***or equivalent mechanisms*** shall also be involved in those checks, where appropriate. ■

Member States shall also ensure that only duly authorised staff of the screening authorities responsible for the identification or verification of identity and the security check have access to the data, systems and databases referred to in Articles 14 and 15.

Member States shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

The ***screening*** 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, ***provided that such experts or liaison officers and teams have the relevant training as referred to in the first and second subparagraphs.***

Article 9

Obligations of third-country nationals subjected to the screening

1. *During the screening, third-country nationals subject to the screening shall remain available to the screening authorities.*
2. *Third-country nationals shall:*
 - a) *indicate their name, date of birth, gender and nationality, and provide documents and information, where available, that prove those data;*
 - b) *provide biometric data as referred to in Regulation (EU) 2024/...⁺.*

Article 10

Monitoring of fundamental rights

1. Member States shall adopt relevant provisions to investigate allegations of failure to respect fundamental rights in relation to the screening.

Member States shall ensure, where appropriate, referral for the initiation of civil or criminal justice proceedings in cases of failure to respect or to enforce fundamental rights, in accordance with national law.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD))

2. Each Member State shall *provide for* an independent *monitoring mechanism in accordance with the requirements set out in this Article, which shall:*

- █
- (a) *monitor* compliance with Union and international law, including the Charter, *in particular as regards access to the asylum procedure, the principle of non-refoulement, the best interest of the child and the relevant rules* on detention, *including relevant provisions on detention in national law, during the screening;* and █
 - (b) ensure that *substantiated* allegations of failure to respect fundamental rights in *all relevant activities in* relation to the screening █ are dealt with effectively and without undue delay, *trigger , where necessary, investigations into such allegations and monitor the progress of such investigations.*

The independent monitoring mechanism shall cover all activities undertaken by the Member States in implementing this Regulation.

The independent monitoring mechanism shall have the power to issue annual recommendations to Member States.

Member States shall put in place adequate safeguards to guarantee the independence of the independent monitoring mechanism. *National Ombudspersons and national human rights institutions, including national preventive mechanisms established under the OPCAT, shall participate in the operation of the independent monitoring mechanism and may be appointed to carry out all or part of the tasks of the independent monitoring mechanism. The independent monitoring mechanism may also involve relevant international and non-governmental organisations and public bodies independent from the authorities carrying out the screening. Insofar as one or more of those institutions, organisations or bodies are not directly involved in the independent monitoring mechanism, the independent monitoring mechanism shall establish and maintain close links with them. The independent monitoring mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor.*

The independent monitoring mechanism shall carry out its tasks on the basis of on-the-spot checks and random and unannounced checks.

Member States shall provide the independent monitoring mechanism with access to all relevant locations, including reception and detention facilities, individuals and documents, insofar as such access is necessary to allow the independent monitoring mechanism to fulfil the obligations set out in this Article. Access to relevant locations or classified information shall be granted only to persons acting on behalf of the independent monitoring mechanism and having received the appropriate security clearance issued by a competent authority in accordance with national law.

The Fundamental Rights Agency shall issue general guidance for Member States on the establishment of a monitoring mechanism and its independent functioning. Member States may request the Fundamental Rights Agency to support them in developing their independent monitoring mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

The Commission shall take into account the findings of the independent monitoring mechanisms in its 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 Council³⁶.

3. *The independent monitoring mechanism referred to in paragraph 2 of this Article shall be without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System as set out in Article 14 of Regulation (EU) 2021/2303 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.*
4. *Member States shall equip the independent monitoring mechanism referred to in paragraph 2 with appropriate financial means.*

³⁶ 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).

Article 11
Provision of information

1. ***Member States shall ensure that third-country nationals subject to the screening are informed about [] :***
- (a) ***the purpose, duration and elements*** of the screening, as well as the manner in which it is carried out and its possible outcomes;
 - (b) ***the right to apply for international protection and the applicable rules on making an application for international protection, where applicable in the circumstances specified in Article 30 of Regulation (EU) 2024/...⁺, and, for those third-country nationals having made an application for international protection, the obligations and the consequences of non-compliance laid down in Articles 17 and 18 of Regulation (EU) 2024/...⁺⁺;***

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

- (c) the rights and obligations ■ of third -country nationals during the screening, including their obligations under *Article 9* and the *possibility to contact and be contacted by the organisations and persons referred to in Article 8(6)*;
- (d) *the rights conferred on data subjects by the applicable Union data protection law, in particular Regulation (EU) 2016/679.*

■

2. *Member States shall also ensure, where appropriate, that third-country nationals subject to the screening are informed about:*

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

■

- (b) *the obligation to return in accordance with Directive 2008/115/EC 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;*
- (c) *the conditions of relocation in accordance with Article 67 of Regulation (EU) 2024/...⁺ or another existing solidarity mechanism.*

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 *provided* in writing, *on paper or in electronic format*, and **█**, where necessary, orally using interpretation services. *In the case of minors, the information shall be provided in a child-friendly and age-appropriate manner and with the involvement of the representative or person referred to in Article 13(2) and (3). The screening authorities may make the necessary arrangements for cultural mediation services to be available to facilitate access to the procedure for international protection.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

4. Member States may authorise relevant and competent national, international and non-governmental organisations and bodies to provide third-country nationals with information referred to in this Article during the screening according to national law.

Article 12

Preliminary health checks and vulnerabilities

1. Third-country nationals subjected to the screening referred to in Articles 5 ***and*** 7 shall be subject to a preliminary ***health check to be carried out by qualified medical personnel*** with a view to identifying any needs for ***health*** care or isolation on public health grounds. ***Qualified medical personnel may decide***, based on the ***medical*** circumstances concerning the general state of ***a*** individual third-country ***national***, ***that no further health check during the screening is necessary. Third-country nationals subject to the screening referred to in Articles 5 and 7 shall have access to emergency health care and essential treatment of illness.***

2. *Without prejudice to the obligations on Member States laid down in Article 24 of Regulation (EU) 2024/...⁺, for third-country nationals that have made applications for international protection the health check referred to in paragraph 1 of this Article may form part of the medical examination referred to in Article 24 of that Regulation.*

3. *Third-country nationals subjected to the screening referred to in Articles 5 and 7 shall be subject to a preliminary vulnerability check by specialised personnel of the screening authorities trained for that purpose, with a view to identifying whether a third-country national might be a stateless person, vulnerable or a victim of torture or other inhuman or degrading treatment, or have special needs within the meaning of Directive 2008/115/EC, Article 25 of Directive (EU) 2024/...⁺⁺ and Article 20 of Regulation (EU) 2024/...⁺. For the purpose of that vulnerability check, the screening authorities may be assisted by non-governmental organisations and, where relevant, by qualified medical personnel.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

⁺⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

4. Where there are indications of vulnerabilities or special reception or procedural needs, the third-country national concerned shall receive timely and adequate support *in adequate facilities* in view of their physical and mental health. In the case of minors, support shall be given *in a child-friendly and age-appropriate manner* by personnel trained and qualified to deal with minors, and in cooperation with national child protection authorities.

5. *Without prejudice to the assessment of special reception needs required under Directive (EU) 2024/...⁺, the assessment of special procedural needs required under Regulation (EU) 2024/...⁺⁺ and the vulnerability check required under Directive 2008/115/EC, the preliminary vulnerability check referred to in paragraphs 3 and 4 of this Article may form part of the vulnerability and special procedural assessments laid down in that Regulation and those Directives.*

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

⁺⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 16/24 (2016/0224(COD)).

Article 13
Guarantees for minors

1. *During the screening, the best interests of the child shall always be a primary consideration in accordance with Article 24(2) of the Charter.*
2. *During the screening, the minor shall be accompanied by, where present, an adult family member.*
3. *Member States shall, as soon as possible, take measures to ensure that a representative or, where a representative has not been appointed, a person trained to safeguard the best interests and general wellbeing of the minor accompanies and assists the unaccompanied minor during the screening in a child-friendly and age-appropriate manner and in a language that he or she understands. That person shall be the person designated to provisionally act as a representative under Directive (EU) 2024/...⁺ where that person has been designated under that Directive.*

The representative shall have the necessary skills and expertise, including regarding the treatment and specific needs of minors. The representative shall act in order to safeguard the best interests and general well-being of the minor and so that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation.

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

4. *The person in charge of accompanying and assisting an unaccompanied minor in accordance with paragraph 3 shall not be a person responsible for any elements of the screening, shall act independently and shall not receive orders either from persons responsible for the screening or from the screening authorities. Such persons shall perform their duties in accordance with the principle of the best interests of the child and shall have the necessary expertise and training to that end. In order to ensure the well-being and social development of the minor, that person shall be changed only when necessary.*
5. *Member States shall place a representative or person as referred to in paragraph 3 in charge of a proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than thirty unaccompanied minors at one time, to ensure that that representative or person is able to perform his or her tasks effectively.*
6. *The fact that a representative has not been appointed or a person provisionally acting as a representative has not been designated under Directive (EU) 2024/...⁺ shall not prevent an unaccompanied minor from exercising the right to apply for international protection.*

⁺ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 69/23 (2016/0222(COD)).

Article 14

Identification *or verification of identity*

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 subjected to the screening pursuant to Article 5 or 7 *of this Regulation* shall be verified *or established*, by using, *where applicable*, the following **■**
 - (a) identity, travel or other documents;
 - (b) data *or information* provided by or obtained from the third-country national concerned; and
 - (c) biometric data.

2. For the purpose of the identification *and verification of identity* referred to in paragraph 1 *of this Article*, the *screening* authorities shall, *using the data or information referred to in that paragraph*, query the Common Identity Repository established by Regulations (EU) 2019/817 and (EU) 2019/818 (CIR) *pursuant to* ■ Article 20a of Regulation (EU) 2019/817 *and pursuant to Article 20a of Regulation (EU) 2019/818*, search the *Schengen Information System* established by Regulations (EU) 2018/1860, (EU) 2018/1861 and (EU) 2018/1862 (*SIS*) *and, where relevant, search the national databases applicable in accordance with national law*. The biometric data of a third-country national *subject to the screening shall be taken once for the purpose of both the identification or verification of identity of that person and registration in Eurodac of that person in accordance with Articles 15(1)(b), 22, 23 and 24 of Regulation (EU) 2024/...⁺ as applicable*.
3. *The query of the CIR provided for in paragraph 2 of this Article shall be launched using the ESP in accordance with Chapter II of Regulation (EU) 2019/817 and Chapter II of Regulation (EU) 2019/818.*
- Where it is technically impossible to use the ESP to query one or more EU information systems or the CIR, the first subparagraph of this paragraph shall not apply and the screening authorities shall access the EU information systems or the CIR directly.*
- This paragraph is without prejudice to access by screening authorities to SIS, for which the use of the ESP shall remain optional.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

4. Where the biometric data of the third-country national cannot be used or where the query using those data referred to in paragraph 2 fails *or returns no hits*, the query ■ shall be carried out using the identity data of the third-country national, in combination with any identity, travel or other document data, or with *any of the* ■ data *or information referred to in paragraph 1, point (b)*.
5. *Searches in SIS with biometric data shall be carried out in accordance with Article 33 of Regulation (EU) 2018/1861 and Article 43 of Regulation (EU) 2018/1862.*
6. The checks, where possible, shall also include the verification of at least one of the biometric identifiers integrated into any identity, travel or other document.

Article 15
Security check

1. Third-country nationals subjected to the screening pursuant to Article 5 or 7 shall undergo **a security check** to verify *whether* they **might pose** a threat to **internal security**. That 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.

2. **For the purpose of conducting the security check referred to in paragraph 1 of this Article, and to** the extent that it has not been already done during the checks referred to in Article 8(3) of Regulation (EU) 2016/399, the **relevant Union databases, in particular SIS**, the Entry/Exit System established by Regulation (EU) 2017/2226 (EES), the European Travel Information and Authorisation System established by Regulation (EU) 2018/1240 (ETIAS), including the ETIAS watchlist referred to in Article 34 of Regulation (EU) 2018/1240, the Visa Information System established by Decision 2004/512/EC (VIS) and the centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons established by Regulation (EU) 2019/816 (ECRIS-TCN) **■**, the Europol data processed for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol **databases shall be consulted as provided for in Article 16 of this Regulation. Relevant national databases may also be consulted for that purpose.**

3. As regards the consultation of the EES, ETIAS, *with the exception of the ETIAS watchlist* referred to in Article 34 of Regulation (EU) 2018/1240, and VIS pursuant to paragraph 2 of *this Article*, the retrieved data shall be limited to indicating refusals of entry, refusals, *annulment or revocation* of a travel authorisation, or decisions to refuse, annul or revoke a visa, a long-stay visa or a residence permit *respectively*, which are based on security grounds.

In the event of a hit in SIS, the screening authority carrying out the search shall have access to the data contained in the alert.

4. *As regards the consultation of ECRIS-TCN, 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), point (c), of Regulation (EU) 2019/816.*

5. *If necessary, the* Commission shall adopt implementing acts setting out the detailed procedure and specifications for retrieving data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).

Article 16

Arrangements for *identification and* security checks

1. The queries provided for in Article 14(2) and in Article 15(2) may be launched using, for queries related to EU information systems, ***Europol data, Interpol Databases***, the ESP in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818¹.
2. Where a ***hit*** is obtained following a query as provided for in Article 15(2) against data in one of the EU information systems, the ***screening authorities*** shall have access to consult ***data*** corresponding to that ***hit*** in the respective EU information ***systems subject to the conditions laid down in the legal acts governing such access.***
3. ***When a hit is obtained following a search in SIS, the screening authorities shall carry out the procedures set out in Regulations (EU) 2018/1860, (EU) 2018/1861 or (EU) 2018/1862, including the consultation of the alert issuing Member State through the SIRENE Bureaux referred to in Article 7(2) of Regulation (EU) 2018/1861 and in Article 7(2) of Regulation (EU) 2018/1862.***

4. *Where the personal data of a third-country national correspond to a person whose data is recorded in ECRIS-TCN and flagged in accordance with Article 5(1), point (c), of Regulation (EU) 2019/816, the data may only be used for the purpose of the security check referred to in Article 15 of this Regulation and for the purpose of consultation of the national criminal records which shall be in accordance with Article 7c of that Regulation. National criminal records shall be consulted prior to the delivery of an opinion pursuant to Article 7c of that Regulation.*

5. *Where a query as provided for in Article 15(2) reports a match against Europol data, an automated notification, containing the data used for the query, shall be sent to Europol in accordance with Regulation (EU) 2016/794 in order for Europol to take, if needed, any appropriate follow-up action, using the communication channels provided for in that Regulation.*

6. ***Queries of Interpol databases as provided for in Article 15(2) of this Regulation shall be performed in accordance with Articles 9(5) and 72(1) of Regulation (EU) 2019/817. Where it is not possible to perform such queries in a way that no information is revealed to the owner of the Interpol alert, the screening shall not include the query of the Interpol databases.***
7. ***When a hit is obtained in the ETIAS watchlist referred to in Article 34 of Regulation (EU) 2018/1240, Article 35a of that Regulation shall apply.***
8. ***If necessary, 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 and Europol national units , respectively, to determine the threat to internal security. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 19(2).***

Article 17

Screening form

1. **The** screening █ authorities shall, with regard to the persons referred to in Articles 5 and 7, █ complete *a* form █ containing *the following*:
- (a) name, date and place of birth and *gender*;
 - (b) █ indication of nationalities *or statelessness*, countries of residence prior to arrival and languages spoken;
 - █
 - (c) *the reason for which the screening was performed*;
 - (d) *information on the preliminary health check carried out in accordance with Article 12(1), including where, based on the circumstances concerning the general state of each individual third-country national, no further health check was necessary*;

- (e) relevant information on the preliminary vulnerability check carried out in accordance with Article 12(3), in particular any vulnerability or special reception or procedural needs identified;*
- (f) information as to whether the third-country national concerned has made an application for international protection;*
- (g) information provided by the third-country national concerned as to whether he or she has family members located on the territory of any Member State;*
- (h) whether the consultation of relevant databases in accordance with Article 15 resulted in a hit;*
- (i) whether the third-country national concerned has complied with his or her obligation to cooperate in accordance with Article 9.*

2. *Where available, the form referred to in paragraph 1 shall include:*
- (a) the reason for irregular arrival or entry;*
 - (b) information on routes travelled, including the point of departure, places of previous residence, third countries of transit, third countries where international protection may have been sought or granted, and intended destination within the Union;*
 - (c) travel or identity documents carried by the third-country nationals;*
 - (d) any comments and other relevant information, including any related information in cases of suspected smuggling or trafficking in human beings.*
3. *The information in the form referred to in paragraph 1 shall be recorded in such a way that it is amenable to administrative and judicial review during any ensuing asylum or return procedure.*

It shall be specified whether the information referred to in paragraph 1, points (a) and (b), is confirmed by the screening authorities or declared by the person concerned.

Information contained in the form shall be made available either on paper or in electronic format to the person concerned. Information referred to in point (h) of paragraph 1 of this Article shall be redacted. Before the form is transmitted to the relevant authorities as referred to in Article 18(1), (2), (3) and (4), the person subject to the screening shall have the possibility to indicate that the information contained in the form is incorrect. The screening authorities shall record any such indication under the relevant information as referred to in this Article.

Article 18

Completion of the screening

1. *Once the screening is completed or, at the latest, when the time limits set in Article 8 of this Regulation expire, third-country nationals referred to in Article 5(1) of this Regulation who **█** have not **made an application** for international protection shall be referred to the authorities competent for applying procedures respecting Directive 2008/115/EC, without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399.*

█

The form referred to in Article 17 shall be transmitted to the relevant authorities to whom the third-country national is being referred.

2. Third-country nationals *referred to in Articles 5 and 7* who *have* made an application for international protection shall be referred to the authorities *competent for registering the application for international protection*.
3. Where the third-country national is to be relocated *in accordance with* Article 67 of Regulation (EU) 2024/...⁺ *or with any other existing mechanism for solidarity*, the third-country national concerned shall be referred to the relevant authorities of the Member States concerned together with the form referred to in Article 17 of this Regulation.
4. The third-country nationals referred to in Article 7 of this Regulation who █ have not *made an application* for international protection *shall continue to be subject to return procedures respecting Directive 2008/115/EC*.

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 21/24 (2020/0279(COD)).

5. Where **■** third-country nationals referred to in Article **■** 5(1) *and* (2) and in Article 7 of *this Regulation* are referred to the appropriate procedure regarding *international protection, to a procedure respecting Directive 2008/115/EC or to the relevant authorities of another Member State concerning third-country nationals to be relocated*, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article 8 of *this Regulation*, the screening shall nevertheless end with regard to that person, who shall be referred to the appropriate procedure.
6. *Where, in accordance with national criminal law, a third-country national referred to in Article 5 or 7 of this Regulation is subject to national criminal law procedures, or to an extradition procedure, Member States may decide not to apply the screening. If the screening had already started, the form referred to in Article 17 of this Regulation shall be sent, with an indication of circumstances that ended the screening, to the authorities competent for the procedures respecting Directive 2008/115/EC, or, if the third-country national has made an application for international protection, the authorities competent under national law for registering applications for international protection.*

7. *The personal data stored pursuant to this Regulation shall be deleted in accordance with the timelines set out in Regulation (EU) 2024/...⁺.*

Article 19

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 *of Regulation (EU) No 182/2011 shall apply. Where the Committee delivers no opinion, the Commission shall not adopt the draft implementing act, and Article 5(4), third subparagraph, of Regulation (EU) No 182/2011 shall apply.*

⁺ OJ: Please insert in the text the number of the Regulation contained in document PE-CONS 15/24 (2016/0132(COD)).

Article 20
Amendments to Regulation (EC) No 767/2008

Article 6 of Regulation (EC) No 767/2008 is amended as follows:

(1) paragraph 2 is replaced by the following:

“2. Access to VIS for █ consulting the data shall be reserved exclusively for the duly *authorised* staff of █ :

- (a) the national authorities of each Member State and of the Union bodies which are competent for the purposes laid down in Articles 15 to 22, Articles 22g to 22m, and Article 45e of this Regulation;*
- (b) the ETIAS Central Unit and the ETIAS National Units, designated pursuant to Articles 7 and 8 of Regulation (EU) 2018/1240, for the purposes laid down in Articles 18c and 18d of this Regulation and for the purposes of Regulation (EU) 2018/1240;*

- (c) *the screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/... of the European Parliament and of the Council^{*,+}, for the purposes laid down in Articles 15 and 16 of that Regulation;*
- (d) *the national authorities of each Member State and of the Union bodies which are competent for the purposes laid down in Articles 20, 20a and 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.

* *Regulation (EU) 2024/... of the European Parliament and of the Council of ... introducing the 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 (OJ L, ..., ELI:...).*”;

(2) *the following paragraph is inserted:*

“2a. The screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/...⁺⁺ shall also have access to VIS for consulting the data in order to perform a security check in accordance with Article 15(2) of that Regulation.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 14(1) of Regulation (EU) 2024/...⁺⁺ and VIS shall return a hit where a decision to refuse, annul or revoke a visa, long-stay visa or residence permit based on the grounds provided for in Article 12(2)(a)(i),(v) and (vi) of this Regulation is recorded in a matching file.

Where a hit is obtained, the screening authorities shall have access to all relevant data in the file.”.

⁺ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

⁺⁺ OJ: Please insert in the text the number of this Regulation.

Article 21
Amendments to Regulation (EU) 2017/2226

Regulation (EU) 2017/2226 is amended as follows:

(1) *in* Article 6(1), the following point is *added*:

“(I) support the objectives of the screening established by Regulation (EU) 2024/... *of the European Parliament and of the Council*⁺, in particular for the checks provided under *Articles 14 to 16* thereof.

* *Regulation (EU) 2024/... of the European Parliament and of the Council of ... introducing the 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 (OJ L, ..., ELI:....).”;*

(2) Article 9 is amended as follows:

■

(a) *the following paragraph is inserted*:

“2b. *The duly authorised staff of the screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/...⁺⁺ shall have access to the EES to consult EES data.*”;

⁺ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

⁺⁺ OJ: Please insert in the text the number of this Regulation.

(b) paragraph 4 is replaced by the following:

“4. Access to the EES data stored in the CIR shall 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 Articles 20, 20a and 21 of *Regulation (EU) 2019/817 and in Articles 20, 20a and 21 of Regulation (EU) 2019/818 of the European Parliament and of the Council**. 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.

* *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 and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 (OJ L 135, 22.5.2019, p. 85).”;

(3) *the following Article is inserted:*

“Article 24a

Access to data for the security check for the purposes of the screening

The screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/...⁺ shall have access to the EES to consult the data in order to perform a security check in accordance with Article 15(2) of that Regulation.

A search in accordance with this Article shall be performed by using the data referred to in Article 14(1) of Regulation (EU) 2024/...⁺ and the EES shall return a hit where a refusal of entry record based on the grounds provided for in points B, D, H, I and J of Part B of Annex V to Regulation (EU) 2016/399 is linked to a matching individual file. Where a hit is obtained, the screening authorities shall have access to all relevant data in the file.

⁺ OJ: Please insert in the text the number of this Regulation.

If the individual file does not include any biometric data, the screening authorities may proceed to access the biometric data of the person concerned and verify correspondence in VIS in accordance with Article 6 of Regulation (EC) No 767/2008.”;

(4) in Article 46(1), point (a) is replaced by the following:

“(a) the purpose of the access referred to in Article 9(2), (2a) and (2b).”.

Article 22
Amendments to Regulation (EU) 2018/1240

Regulation (EU) 2018/1240 is amended as follows:

I
(1) in Article 4, the following point is inserted:

“(eb) support the purposes of Regulation (EU) 2024/... of the European Parliament and of the Council”⁺;

*** Regulation (EU) 2024/... of the European Parliament and of the Council of ... introducing the 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 (OJ L, ..., ELI:...).”;**

(2) in Article 8(2), the following point is added:

“(i) providing opinions in accordance with Article 35a.”;

⁺ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

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

(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 Articles 20, 20a and 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.”;

(b) *the following paragraph is inserted:*

“4b. The screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/... of the European Parliament and of the Council⁺ (the ‘screening authorities’) shall also have access to ETIAS to consult the data in order to perform the checks in accordance with Article 15(2) of that Regulation.

⁺ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

A search in accordance with this paragraph shall be performed by using the data referred to in Article 14(1), points (a) and (b), of Regulation (EU) 2024/...⁺ and ETIAS shall return a hit where a decision refusing, annulling or revoking a travel authorisation based on Article 28(7) or on Article 37(1), points (a), (b) and (e), of this Regulation is included in a matching application file.

Where a hit is obtained, the screening authorities shall have access to all relevant data in the file.

If the search carried in accordance with this paragraph 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, 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.

** Regulation (EU) 2024/... of the European Parliament and of the Council of ... introducing the 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 (OJ L, ..., ELI:...);*

⁺ OJ: Please insert in the text the number of this Regulation.

(c) *paragraph 5* is replaced by the following:

“5. Each Member State shall designate the competent national authorities referred to in paragraphs 1, 2, **4** and **4a** of this Article, and the *screening* authorities referred to in paragraph **4b** of this Article, 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, **4** and **4a** of this Article.”;

(4) *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

- 1. In cases referred to in Article 13(4b), fourth subparagraph, the ETIAS Central System shall send an automated notification to either the ETIAS National Unit or to Europol, depending on which of them entered the data into the ETIAS watchlist. Where the ETIAS National unit or Europol, as appropriate, considers that the third-country national undergoing the screening might pose a threat to internal security, it 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.*

2. *The automated notification referred to in paragraph 1 of this Article shall contain the data referred to in Article 15(2) of Regulation (EU) 2024/...⁺ used for the query.”;*

(5) *in Article 69(1), the following point is inserted:*

“(ea) where relevant, a reference to queries entered in the ETIAS Central System for the purposes of Articles 14 and 15 Regulation (EU) 2024/...⁺, the hits triggered and the results of this query;”.

⁺ OJ: Please insert in the text the number of this Regulation.

Article 23
Amendments to Regulation (EU) 2019/817

Regulation (EU) 2019/817 is amended as follows:

(1) in Article 7, paragraph 2 is replaced by the following:

“The Member State authorities and Union agencies referred to in paragraph 1 of this Article shall use the ESP to search data related to persons or their travel documents in the central systems of the EES, VIS and ETIAS in accordance with their access rights as referred to in the legal instruments governing those EU information systems and in national law. They shall also use the ESP to query the CIR in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 20a, 21 and 22.”;

(2) *Article 17 is amended as follows:*

“(a) paragraph 1 is replaced by the following:

“A common identity repository (CIR), creating an individual file for each person that is registered in the EES, VIS, ETIAS, Eurodac or ECRIS-TCN containing the data referred to in Article 18, is established for the purpose of facilitating and assisting in the correct identification of persons registered in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in accordance with *Articles* 20 and 20a, of supporting the functioning of the MID in accordance with Article 21 and of facilitating and streamlining access by designated authorities and Europol to the EES, VIS, ETIAS and Eurodac, where necessary for the prevention, detection or investigation of terrorist offences or other serious criminal offences in accordance with Article 22.”;

(b) *paragraph 4 is replaced by the following:*

“Where it is technically impossible because of a failure of the CIR to query the CIR for the purpose of identifying a person pursuant to Article 20 or for the purpose of identification or verification of identity of a person pursuant to Article 20a, for the detection of multiple identities pursuant to Article 21 or for the purposes of preventing, detecting or investigating terrorist offences or other serious criminal offences pursuant to Article 22, the CIR users shall be notified by eu-LISA in an automated manner.”;

(3) *in Article 18, paragraph 3 is replaced by the following:*

“The authorities accessing the CIR shall do so in accordance with their access rights under the legal instruments governing the EU information systems, and under national law and in accordance with their access rights under this Regulation for the purposes referred to in Articles 20, 20a, 21 and 22.”;

(4) *the* following Article is inserted:

“Article 20a

Access to the common identity repository for *identification or verification of identity* according to Regulation (EU) 2024/... *of the European Parliament and of the Council*⁺

1. Queries of the CIR shall be carried out by the *screening authorities as defined in Article 2, point (10), of Regulation (EU) 2024/...*⁺⁺ (the ‘screening authorities’) solely for the purpose of identification or *verification of identity of* a person according to Article 14 of that Regulation, provided that the *process* was initiated in the presence of that person.
2. Where the query indicates that data on that person are stored in the CIR, the *screening* authorities shall have access to consult the data referred to in Article 18(1) *of this Regulation* as well as to the data referred to in Article 18(1) of Regulation (EU) 2019/818.

* *Regulation (EU) 2024/... of the European Parliament and of the Council of ... introducing the 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 (OJ L, ..., ELI:...).*”;

⁺ OJ: Please insert in the text the number of this Regulation and insert the number, date and OJ reference of this Regulation in the footnote.

⁺⁺ OJ: Please insert in the text the number of this Regulation.

(5) *Article 24 is amended as follows:*

(a) *paragraph 1 is replaced by the following:*

“1. Without prejudice to Article 46 of Regulation (EU) 2017/2226, Article 34 of Regulation (EC) No 767/2008 and Article 69 of Regulation (EU) 2018/1240, eu-LISA shall keep logs of all data processing operations in the CIR in accordance with paragraphs 2, 2a, 3 and 4 of this Article.”;

(b) *the following paragraph is inserted:*

“2a. eu-LISA shall keep logs of all data processing operations pursuant to Article 20a in the CIR. Those logs shall include the following:

(a) the Member State launching the query;

(b) the purpose of access of the user querying via the CIR;

- (c) *the date and time of the query;*
- (d) *the type of data used to launch the query;*
- (e) *the results of the query.”;*

(c) *in paragraph 5, the first subparagraph is replaced by the following:*

“ *Each Member State shall keep logs of queries that its authorities and the staff of those authorities duly authorised to use the CIR make pursuant to Articles 20, 20a, 21 and 22. Each Union agency shall keep logs of queries that its duly authorised staff make pursuant to Articles 21 and 22.”.*

Article 24

Evaluation

By ... [four years from the entry into force of this Regulation], the Commission shall report on the implementation of the measures set out in this Regulation. █

By ... [seven years from the date of entry into *force* 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, by ... [six years and six months from the date of entry into force of this Regulation], and every five years thereafter.

Article 25

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from ... [24 months from the entry into force of this Regulation].

The provisions laid down in Articles 14 to 16 related to queries to EU information systems, the CIR and the ESP shall start to apply only once the individual relevant information systems, the CIR and ESP enter into operation.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at ...,

For the European Parliament
The President

For the Council
The President
