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From:	General Secretariat of the Council
To:	Delegations
Subject:	Proposal for a Regulation of the European Parliament and of the Council on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System - Four column table

Delegations will find attached the text of the four-column document for the above-mentioned proposal, containing the initial positions of the institutions.

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System

2024/0315(COD)

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07-05-2025 at 10h54

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Formula				
1	2024/0315 (COD)	2024/0315 (COD)	2024/0315 (COD)	
Document Stage				
2	Proposal for a	Proposal for a	Proposal for a	
Document Type				
3	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	
Document Purpose				
4	on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System	on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System	on a temporary derogation from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 as regards a progressive start of operations of the Entry/Exit System	
Formula				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
5	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
Citation 1				
6	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) points (b) and (d) and Article 87(2) point (a), thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) points (b) and (d) and Article 87(2) point (a), thereof,	Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2) points (b) and (d) and Article 87(2) point (a), thereof,	
Citation 2				
7	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
Citation 3				
8	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
Citation 4				
9	Acting in accordance with the ordinary legislative procedure ¹ , 1. [placeholder] Position of the European Parliament of [date to be added after agreement] and decision of the Council of [date to be added after agreement].	Acting in accordance with the ordinary legislative procedure ¹ , 1. [placeholder] Position of the European Parliament of [date to be added after agreement] and decision of the Council of [date to be added after agreement].	Acting in accordance with the ordinary legislative procedure ¹ , 1. [placeholder] Position of the European Parliament of [date to be added after agreement] and decision of the Council of [date to be added after agreement].	
Formula				
10	Whereas:	Whereas:	Whereas:	
Recital 1				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
11	(1) Article 66(1) of Regulation (EU) 2017/2226 of the European Parliament and of the Council¹, establishing the Entry/Exit System ('EES'), provides that the Commission is to decide the date from which the EES is to start operations, provided that certain conditions are met. 1. Regulation 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, ELI: http://data.europa.eu/eli/reg/2017/2226/oj) .	(1) Article 66(1) of Regulation (EU) 2017/2226 of the European Parliament and of the Council¹, establishing the Entry/Exit System ('EES'), provides that the Commission is to decide the date from which the EES is to start operations, provided that certain conditions are met. 1. Regulation 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, ELI: http://data.europa.eu/eli/reg/2017/2226/oj) .	(1) Article 66(1) of Regulation (EU) 2017/2226 of the European Parliament and of the Council¹, establishing the Entry/Exit System (<i>the</i> 'EES'), provides that the Commission is to decide the date from which the EES is to start operations, provided that certain conditions are met. 1. Regulation 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, ELI: http://data.europa.eu/eli/reg/2017/2226/oj) .	
Recital 2				
12	(2) However, the Commission has not received all notifications pursuant to Article 66(1), point (c), of Regulation (EU) 2017/2226, which is one of the conditions for deciding on the start of operations of the EES.	(2) However, the Commission has not received all notifications pursuant to Article 66(1), point (c), of Regulation (EU) 2017/2226, which is one of the conditions for deciding on the start of operations of the EES.	(2) However, the Commission has not received all notifications pursuant to Article 66(1), point (c), of Regulation (EU) 2017/2226, which is one of the conditions for deciding on the start of operations of the EES.	

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Recital 3			<u>Moreover, a full start of operations overnight could constitute a risk factor for the resilience of the system as a whole.</u>	
13	(3) Regulation (EU) 2017/2226 only allows for a full start of operations, requiring all Member States to start using the EES fully for all third-country nationals subject to registration in the EES and to use the EES simultaneously at all their border crossing points.	(3) Regulation (EU) 2017/2226 only allows for a full start of operations, requiring all Member States to start using the EES fully for all third-country nationals subject to registration in the EES and to use the EES simultaneously at all their border crossing points. <u>However, a full start of operations of all EES functionalities at all border crossing points simultaneously constitutes a risk for the resilience of the EES as a whole and for passenger flows at the external borders.</u>	(3) Regulation (EU) 2017/2226 only allows for a full start of operations, requiring all Member States to start using the EES fully for all third-country nationals subject to registration in the EES and to use the EES simultaneously at all their border crossing points.	
Recital 4				
14	(4) To provide Member States with the necessary flexibility to start using the EES according to their level of readiness and facilitate technical and operational adjustments when starting to operate the EES, it is necessary to lay down rules for a progressive start of operations of the EES. To	(4) <u>In order to ensure a smooth launch of the EES and facilitate its timely roll-out in all Member States</u> , to provide Member States with the necessary flexibility to start using the EES according to their level of readiness and <u>within a clearly defined period of time and to</u>	(4) To provide Member States with the necessary flexibility to start using the EES according to their level of readiness and <u>to</u> facilitate technical and operational adjustments when starting to operate the EES, it is necessary to lay down rules for a progressive start of operations of the EES. To	

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	ensure these adjustments reflect potential travel flows and seasonal peaks, such a progressive start should have a duration of 180 calendar days.	facilitate technical and operational adjustments when starting to operate the EES, it is necessary to lay down rules for a progressive start of operations of the EES <u>during which Member States should be able to opt for a phased roll-out of the EES</u> . To ensure these adjustments reflect <u>take account of</u> potential travel flows and seasonal peaks, such a progressive start should have a duration of 180 calendar days.	ensure these adjustments reflect potential travel flows and seasonal peaks, <u>while considering that the progressive start of operations may also have some impact for the Member States in terms of increased workload at the border crossing points</u> , such a progressive start <u>of operations of the EES</u> should have a <u>limited</u> duration of 180 calendar days.	
Recital 5				
15	(5) To enable a progressive start of operations of the EES it is therefore necessary to derogate from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 of the European Parliament and of the Council ¹ ('Schengen Borders Code'). Other rules set out in Regulation (EU) 2017/2226 that are not affected by this Regulation apply as provided for in that Regulation. In particular, the data recorded in the EES throughout the progressive start of operations follow the rules set out in Regulation (EU) 2017/2226 and are considered reliable and accurate.	(5) To enable a progressive start of operations of the EES it is therefore necessary to derogate from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 of the European Parliament and of the Council ¹ ('Schengen Borders Code'). Other rules set out in Regulation (EU) 2017/2226 that are not affected by this Regulation apply as provided for in that Regulation. In particular, the data recorded in the EES throughout the progressive start of operations follow the rules set out in Regulation (EU) 2017/2226 and are considered reliable and accurate. <u>This Regulation does</u>	(5) To enable a progressive start of operations of the EES it is therefore necessary to derogate <u>temporarily</u> from certain provisions of Regulation (EU) 2017/2226 and Regulation (EU) 2016/399 of the European Parliament and of the Council ¹ ('Schengen Borders Code'). Other rules set out in Regulation (EU) 2017/2226 that are not affected by this Regulation apply as provided for in that Regulation. In particular, the <u>rules set out in Regulation (EU) 2017/2226 apply to the</u> data recorded in the EES throughout the progressive start of operations follow the rules set out in Regulation (EU) 2017/2226 and	

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1. 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, ELI: http://data.europa.eu/eli/reg/2016/399/oj).	<u>not affect the validity of the notifications already provided to the Commission by Member States under Article 66(1) of Regulation (EU) 2017/2226.</u> 1. <u>[1]</u> 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, ELI: http://data.europa.eu/eli/reg/2016/399/oj).	##<u>of the EES and those data are therefore</u> considered reliable and accurate. <u>In addition, this Regulation does not affect the validity of the notifications already provided by Member States under Article 66(1) of Regulation (EU) 2017/2226.</u> 1. 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, ELI: http://data.europa.eu/eli/reg/2016/399/oj).	
Recital 6			
(6) Member States should progressively start operating the EES to record, on entry and exit, the data of third-country nationals subject to registration in the EES at one or more border crossing points. If possible and applicable, Member States should include a combination of air, land and sea border crossing points. To ensure a controlled launch of the EES and to better manage and avoid potential long waiting times at the borders, where relevant, Member States should deploy all the functionalities of the EES progressively and register the data	(6) Member States <u>that do not intend to use the EES simultaneously at all their border crossing points from the start of operations</u>, should progressively start operating the EES to record, on entry and exit, the data of third-country nationals subject to registration in the EES at one or more <u>border crossing points, or at one or more lanes of such</u> border crossing points. If possible and applicable, Member States should include a combination of air, land and sea border crossing points. To ensure a controlled launch of the EES and to better manage and	(6) Member States should progressively start operating the EES to record, on entry and exit, the data of third-country nationals subject to registration in the EES at one or more <u>border crossing points, and at one or more lanes of such</u> border crossing points. If possible and applicable, Member States should include a combination of air, land and sea border crossing points. To ensure a controlled launch of the EES and to better manage and avoid potential long waiting times at the borders, where relevant, Member States should deploy all the	

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	of all third-country nationals subject to registration in the EES gradually. To ensure a coordinated approach, the progressive start of operations should be implemented in phases, which should set the minimum requirements to be reached by Member States. Member States will have the possibility to accelerate implementation at national level or start operating the EES fully from the beginning of the progressive approach.	avoid potential long waiting times at the borders, where relevant, <u>and if necessary</u>, Member States should deploy all the functionalities of the EES progressively and register the data of all third-country nationals subject to registration in the EES gradually. To ensure a coordinated approach, the full use of the EES at all border crossing points in the Union, where Member States choose a progressive start of operations <u>it</u> should be implemented in phases, which should set the minimum requirements to be reached by Member States. Member States will have<u>retain</u> the possibility to accelerate implementation at national level or start operating the EES fully from the beginning <u>of start of operations. The gradual processing of data in the EES should be carried out in full respect of the rights of data subjects as set out in Regulation (EU) 2016/679 of the European Parliament and of the Council</u> <u>and should not lead, directly or indirectly, to any form of discrimination or profiling. The Commission, in consultation with</u>	functionalities of the EES progressively and register the data of all third-country nationals subject to registration in the EES gradually. To ensure a coordinated approach, the progressive start of operations <u>of the EES</u> should be implemented in phases, which should set the minimum requirements to be reached by Member States. Member States will have the possibility to accelerate implementation at national level or start operating the EES fully from the beginning of the progressive approach.	

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	<u>the European Data Protection Supervisor, should issue guidelines on the processing of personal data in the EES during the progressive start of operations. the progressive approach.</u>		
Recital 7			
(7) To facilitate a smooth deployment of the EES, the European Union Agency for Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) should develop a high-level roll-out plan to provide guidance to Member States and Union agencies on planning and executing the EES deployment during its progressive start of operations and should submit it to the Commission, Member States and Union agencies. This plan should include the capacity limits of the Central System as specified by eu-LISA for each phase of deployment. Member States' decisions to start or advance operations should take into account the capacity of the Central System as outlined in the high-level roll-out plan.	(7) To facilitate a smooth deployment of the EES, the European Union Agency for Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) should develop a high-level roll-out plan to <u>support the effective and continuous operation of the EES Central System, include fall-back procedures for the functioning of the EES Central System and</u> provide guidance to <u>the end-users, including the</u> Member States and Union agencies on planning and executing the EES deployment during its progressive start of operations and should submit it to the <u>European Parliament, the</u> Commission, Member States and Union agencies. This plan should include the capacity limits of the Central System as specified by eu-LISA for each phase of	(7) To facilitate a smooth deployment of the EES, the European Union Agency for Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) should develop a high-level roll-out plan to provide guidance to Member States and Union agencies on planning and executing the EES deployment <u>of the EES</u> during its progressive start of operations <u>(the 'eu-LISA high-level roll-out plan')</u> and should submit it to the Commission, Member States and Union agencies. This plan should include the capacity limits confirm <u>performance and availability targets</u> of the EES central system as specified by eu-LISA for each phase of deployment well as the strategy regarding eventual functional minor, major and blocking defects and be adopted	

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Recital 8		<i>deployment. Member States' decisions to start or advance operations should take into account the capacity of the Central System as outlined in the high-level roll-out plan.</i>	<i>by the eu-LISA Management Board.</i> Member States' decisions to start or advance operations should take into account the <i>capacity of the Central System as outlined in the</i> high-level roll-out plan.	
18	(8) To facilitate a smooth deployment of the EES, Member States should develop national roll-out plans in consultation with the Commission and eu-LISA. For each of the phases of the progressive start of the EES operations, the national roll-out plans should include the information on the set thresholds and requirements, in particular: (i) the date from which the EES will operate at each border crossing point; (ii) the percentage of the estimated number of border crossings to be registered in the EES out of the total number of third-country nationals subject to registration in the EES; and (iii) where applicable, the biometric functionalities to be operated at each selected border crossing point. When preparing their respective national roll-out plans, Member States are encouraged to	(8) To facilitate a smooth deployment of the EES, Member States should develop national roll-out plans in consultation with the Commission and eu-LISA <u>and present those plans to the Commission</u>. For each of the phases of the progressive start of the EES operations, the national roll-out plans should include the information on the set thresholds and requirements, in particular: (i) the date from which the EES will operate at each border crossing point; (ii) the percentage of the estimated number of border crossings to be registered in the EES out of the total number of third-country nationals subject to registration in the EES; and (iii) where applicable, the biometric functionalities to be operated at each selected border crossing point. When preparing their respective national roll-out plans,	(8) To facilitate a smooth deployment of the EES, Member States should develop national roll-out plans in consultation with the Commission and eu-LISA. For each of the phases of the progressive start of the EES operations <u>of the EES</u>, the national roll-out plans should include the information on the set thresholds and requirements, in particular: (i) the <u>expected</u> date from which the EES will operate at each border crossing <u>point</u>; (ii) the <u>expected</u> percentage of the estimated number of border crossings to be registered in the EES out of the total number of third-country nationals subject to registration in the EES; and (iii) where applicable, the biometric functionalities, <u>expected</u> to be operated at each selected border crossing <u>point</u>. When	

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	appropriately coordinate with the operators of infrastructure where border crossing points are located. To monitor compliance with the progressive start of operations, Member States should provide the Commission and eu-LISA monthly reports on the implementation of their roll-out plans. Such monthly reports should include corrective measures, where necessary, to ensure compliance with the progressive start of operations.	Member States are encouraged <u>should</u> appropriately coordinate with the operators of infrastructure where border crossing points are located. <u>and inform relevant stakeholders of the border crossing points where they plan to start operating the EES and of their planned use of the EES</u> To monitor compliance with the progressive start of operations, Member States should provide the Commission and eu-LISA monthly reports on the implementation of their roll-out plans <u>unless and until the EES is used fully for all third-country nationals subject to registration in the EES and is used simultaneously at all border crossing points in the Member State.</u> Such monthly reports should include corrective measures, where necessary, to ensure compliance with the progressive start of operations. <u>The Commission should issue guidelines to facilitate the adoption of national roll-out plans and monthly reports by the Member States that are concise and proportionate.</u>	preparing their respective national roll-out plans, Member States are encouraged to appropriately coordinate with the operators of infrastructure where border crossing points are located. To monitor compliance with the progressive start of operations <u>of the EES</u>, Member States should provide the Commission and eu-LISA <u>with</u> monthly reports on the implementation of their <u>national</u> roll-out plans. Such monthly reports should include corrective measures, where necessary, to ensure compliance with the progressive start of operations.	

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Recital 8a				
18a		<i><u>(8a) To facilitate a smooth deployment of the EES, it is important that neither the start nor the end of the progressive start of operations of the EES coincide with the peak travel seasons in summer, June to August, or winter, December to February.</u></i>		
Recital 9				
19	(9) Due to the progressive start of operations of the EES and possible incompleteness of the data recorded in the EES, travel documents of third-country nationals should be systematically stamped on entry and exit during the progressive start of operations of the EES. National authorities should take into account the possible incompleteness of entry/exit records or of refusal of entry records and should consider stamps as prevailing over the information registered in the EES. In addition, when providing information to third-country nationals about the maximum remaining duration of their authorised stay, national authorities should base their	(9) Due to the progressive start of operations of the EES and possible<i>resulting</i> incompleteness of the data recorded in the EES, travel documents of third-country nationals should be systematically stamped on entry and exit during the progressive start of operations of the EES. National authorities should take into account the possible incompleteness of entry/exit records or of refusal of entry records and should consider stamps as prevailing over the information registered in the EES. In addition, when providing information to third-country nationals about the maximum remaining duration of their authorised stay, national authorities should base their	(9) Due to the progressive start of operations of the EES and<i>Considering the</i> possible incompleteness of the data recorded in <u>the EES during the progressive start of operations of</u> the EES, travel documents of third-country nationals should be systematically stamped on entry and exit during the progressive start of operations of the EES. National authorities should take into account the possible incompleteness of entry/exit records or of refusal of entry records, <u>In case there is no relevant EES data, they</u> and should consider stamps as prevailing over the information registered in the EES. In addition, when providing information to	

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	assessment on the stamps affixed in the travel documents. The data recorded in the EES should prevail in case a stamp is missing.	assessment on the stamps affixed in the travel documents. The data recorded in the EES should <u>prevail</u> <u>be used in the calculation of maximum remaining duration only</u> in case a stamp is missing.	<u>third-country nationals about the maximum remaining duration of their authorised stay, national authorities. In case a stamp is missing, they should base their assessment on the stamps affixed in the travel documents; consider</u> the data recorded in the EES <u>should prevail</u> <u>as prevailing</u> . In case <u>of a discrepancy between the individual file containing biometric data and the stamp, they should consider the EES data as prevailing. In case of a discrepancy between the individual file without biometric data and the stamp or in cases referred to in Article 16(4) of Regulation (EU) 2017/2226, they should decide, on a case by case basis, whether the stamp or the EES data is prevailing</u> <u>is missing</u> .	
Recital 10				
20	(10) Considering that the data registered in the EES during the progressive start of operations of the EES might be incomplete, national authorities should not take into account the results provided by the automated calculator on the maximum remaining duration of the authorised stay of third-country nationals registered in the	(10) Considering that the data registered in the EES during the progressive start of operations of the EES might be incomplete, national authorities should not take into account the results provided by the automated calculator on the maximum remaining duration of the authorised stay of third-country nationals registered in the	(10) Considering that the data registered in the EES during the progressive start of operations of the EES might be incomplete, national authorities should not take into account the results provided by the automated calculator on the maximum remaining duration of the authorised stay of third-country nationals registered in the	

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	EES. Similarly, when carrying out their tasks, national authorities should not take into account the automated mechanism to identify or flag the lack of exit records following the date of expiry of an authorised stay or the records for which the maximum duration of authorised stay was exceeded, generating lists of persons identified as overstayers.	EES. Similarly, when carrying out their tasks, national authorities should not take into account the automated mechanism to identify or flag the lack of exit records following the date of expiry of an authorised stay or the records for which the maximum duration of authorised stay was exceeded, generating <u>as well as the generated</u> lists of persons identified as overstayers.	EES. Similarly, when carrying out their tasks, national authorities should not take into account the automated mechanism to identify or flag the lack of exit records following the date of expiry of an authorised stay or the records for which the maximum duration of authorised stay was exceeded, generating lists of persons identified as overstayers.	
Recital 11				
21	(11) To provide Member States with the necessary time to adjust to the start of the EES, for the first 60 calendar days of the progressive start of operations, the use of biometric functionalities at border crossing points should not be mandatory. No later than the 90 th calendar day after the progressive start of operations, Member States should operate the EES with biometric functionalities at least at half of their border crossing points. Providing biometric data should not be an entry condition for third-country nationals subject to registration in the EES at the border crossing points where the EES is operated without biometric functionalities.	(11) To provide Member States with the necessary time to adjust to the start of the EES, for the first 60 calendar days of the progressive start of operations, the use of biometric functionalities at border crossing points should not be mandatory. <u>However, Member States are encouraged to make use of those functionalities during that period in order to support a smooth operational transition and to enable the timely detection and resolution of any potential implementation issues.</u> No later than the 90 th calendar day after <u>of</u> the progressive start of operations, Member States should operate the EES with biometric functionalities	(11) To provide Member States with the necessary time to adjust to the start of <u>operations of</u> the EES, for <u>during</u> the first 60 calendar days of the progressive start of operations <u>of the EES</u> , the use of biometric functionalities at border crossing points should not be mandatory. No later than the 90 th calendar day after <u>from the first day of</u> the progressive start of operations <u>of the EES</u> , Member States should operate the EES with biometric functionalities at least at half of their border crossing points. Providing biometric data should not be an entry condition for third-country nationals subject to registration in the EES at the border crossing points where the	

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		at least at half of their border crossing points. Providing biometric data should not be an entry condition for third-country nationals subject to registration in the EES at the border crossing points where the EES is operated without biometric functionalities.	EES is operated without biometric functionalities.	
Recital 12				
22	(12) To accommodate the need to progressively deploy the EES with biometric functionalities at some border crossing points, the biometric verification of third-country nationals subject to registration in the EES should only be carried out at the border crossing points at which the EES is operated with biometric functionalities.	(12) To accommodate the need to progressively deploy the EES with biometric functionalities at some border crossing points, the biometric verification of third-country nationals subject to registration in the EES should only be carried out at the border crossing points at which the EES is operated with biometric functionalities.	(12) To accommodate the need to progressively deploy the EES with biometric functionalities at some border crossing points, the biometric verification of third-country nationals subject to registration in the EES should only be carried out at the border crossing points at which the EES is operated with biometric functionalities.	
Recital 13				
23	(13) To ensure coherence of the operations of the interoperability between the Visa Information System (VIS) established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ¹ and the EES, the VIS should only be accessed directly at those border crossing points at which the EES is not operated. At the border	(13) To ensure coherence of the operations of the interoperability between the Visa Information System (VIS) established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ¹ and the EES, the VIS should only be accessed directly at those border crossing points at which the EES is not operated. At the border	(13) To ensure coherence of the operations of the interoperability between the Visa Information System (VIS) established by Regulation (EC) No 767/2008 of the European Parliament and of the Council ¹ and the EES, the VIS should only be accessed directly at those border crossing points at which the EES is not operated. At the border	

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	crossing points at which the EES is operated, border authorities should make use of the interoperability between the EES and the VIS. 1. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).	crossing points at which the EES is operated, border authorities should make use of the interoperability between the EES and the VIS. 1. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).	crossing points at which the EES is operated, border authorities should make use of the interoperability between the EES and the VIS. 1. Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60, ELI: http://data.europa.eu/eli/reg/2008/767/oj).	
Recital 14				
24	(14) Third-country nationals whose data are to be recorded in the EES should be informed about their rights and obligations regarding the processing of their data in the form of a template as provided in Article 50(5) of Regulation (EU) 2017/2226. The information to be provided to third-country nationals subject to the EES registration should refer to the progressive start of operations of the EES. Third-country nationals should be informed in the template of their obligation to provide biometric data at border crossing points where it constitutes an entry condition. They should be made	(14) Third-country nationals whose data are to be recorded in the EES should be informed about their rights and obligations regarding the processing of their data in the form of a template as provided in Article 50(5) of Regulation (EU) 2017/2226. The information to be provided to third-country nationals subject to the EES registration should refer to the progressive start of operations of the EES. Third-country nationals should be informed in the template of their obligation to provide biometric data at border crossing points where it constitutes an entry condition. They should be made	(14) Third-country nationals whose data are to be recorded in the EES should be informed about their rights and obligations regarding the processing of their data in the form of a template as provided in Article 50(5) of Regulation (EU) 2017/2226. The information to be provided to <u>those</u> third-country nationals subject to the EES registration should refer to the progressive start of operations of the EES. Third-country nationals should be informed in the template of their obligation to provide biometric data at border crossing points where it constitutes an entry condition. They should be made	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	aware in the template of the consequences of not providing biometric data. They should be informed in the template that it will not be possible for them to verify the remaining duration of the authorised stay by automated means.	aware in the template of the consequences of not providing biometric data. They should be informed in the template that it will not be possible for them to verify the remaining duration of the authorised stay by automated means. <u>National authorities should make all reasonable efforts to provide those third-country nationals with details of the duration of their authorised stay based on the stamps in their travel documents.</u>	aware in the template of the consequences of not providing biometric data. They should be informed in the template that it will not be possible for them to verify the remaining duration of the authorised stay by automated means.	
Recital 15				
25	(15) To reflect the progressive start of operations of the EES, the Commission should introduce relevant updates on the EES website.	(15) To reflect the progressive start of operations of the EES, the Commission should, <u>at least every month</u> , introduce relevant updates on the EES website.	(15) To reflect the progressive start of operations of the EES, the Commission should introduce relevant updates on the EES website.	
Recital 16				
26	(16) The aim of raising awareness among third-country nationals on their specific rights and obligations would be best achieved if Member States customise the implementation of the campaign based on how the EES will operate at their borders at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226. The	(16) The aim of raising awareness among third-country nationals on their specific rights and obligations would be best achieved if Member States customise the implementation of the campaign based on how the EES will operate at their borders at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226. The	(16) The aim of raising awareness among third-country nationals on their specific rights and obligations would be best achieved if Member States customise the implementation of the campaign based on how the EES will operate at their borders at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226. The	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	information materials developed by the Commission with the support of Member States in the context of Article 51 of Regulation (EU) 2017/2226 should therefore be adapted to carry out the information campaign accompanying the progressive start of operations.	information materials developed by the Commission <u>in cooperation with the supervisory authorities and the European Data Protection Supervisor, and</u> with the support of Member States in the context of Article 51 of Regulation (EU) 2017/2226 should therefore be adapted to carry out the information campaign accompanying the progressive start of operations.	information materials developed by the Commission with the support of Member States in the context of Article 51 of Regulation (EU) 2017/2226 should therefore be adapted <u>by the Commission</u> to carry out the information campaign accompanying the progressive start of operations <u>of the EES, with the support of Member States</u> .	
Recital 17				
27	(17) During the progressive start of operations of the EES, the web service will not enable third-country nationals to electronically verify the exact duration of their authorised stay.	(17) During the progressive start of operations of the EES, the web service will not enable third-country nationals to electronically verify the exact duration of their authorised stay.	(17) During the progressive start of operations of the EES, the web service <u>referred to in Article 13(1) of Regulation (EU) 2017/2226</u> will not enable third-country nationals to electronically verify the exact duration of their authorised stay.	
Recital 18				
28	(18) This Regulation does not affect the obligations of air carriers, sea carriers and international carriers transporting groups overland by coach as set out in Article 26(1) of the Convention implementing the Schengen Agreement ¹ and Council Directive 2001/51/EC. ² In this respect, carriers should verify the	(18) This Regulation does not affect the obligations of air carriers, sea carriers and international carriers transporting groups overland by coach as set out in Article 26(1) of the Convention implementing the Schengen Agreement ¹ and Council Directive 2001/51/EC. ² In this respect, carriers should verify the	(18) This Regulation does not affect the obligations of air carriers, sea carriers and international carriers transporting groups overland by coach as set out in Article 26(1) of the Convention implementing the Schengen Agreement ¹ and Council Directive 2001/51/EC. ² In this respect, carriers should verify the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	stamps affixed in travel documents. To ensure effective communication with carriers about the distinct application of the EES at the border crossing points, ultimately benefiting travellers, it is crucial that Member States are transparent about the deployment of the EES at their border crossing points. 1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') (OJ L 239, 22.9.2000, p. 19, ELI: http://data.europa.eu/eli/convention/2000/922/oj). 2. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj).	stamps affixed in travel documents. To ensure effective communication with carriers about the distinct application of the EES at the border crossing points, ultimately benefiting travellers, it is crucial that Member States are transparent about the deployment of the EES at their border crossing points. 1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') (OJ L 239, 22.9.2000, p. 19, ELI: http://data.europa.eu/eli/convention/2000/922/oj). 2. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj).	stamps affixed in travel documents. To ensure effective communication with carriers about the distinct application of the EES at the border crossing points, ultimately benefiting travellers, it is crucial that Member States are transparent about the deployment of the EES at their border crossing points. 1. Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ('the Convention implementing the Schengen Agreement') (OJ L 239, 22.9.2000, p. 19, ELI: http://data.europa.eu/eli/convention/2000/922/oj). 2. Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, p. 45, ELI: http://data.europa.eu/eli/dir/2001/51/oj).	
Recital 19	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	
29	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	(19) Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399 provide for a transitional period and transitional measures referring to the start of operations of the EES.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	It is necessary to derogate from those Articles to ensure that the transitional period and the transitional measures apply only as of the end of the progressive start of operations. That derogation should cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	It is necessary to derogate from those Articles to ensure that the transitional period and the transitional measures apply only as of the end of the progressive start of operations. That derogation should cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	<u>To enable a progressive start of operations of the EES</u> , it is necessary to derogate from those Articles to ensure that the transitional period and the transitional measures apply only as <u>after</u> of the end of the progressive start of operations <u>of the EES</u> . That derogation should cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	
Recital 20				
30	(20) To ensure that national authorities and EU agencies, in the performance of their tasks, avoid taking decisions exclusively based on data registered in the EES, they should take into account that individual files registered in the EES may contain incomplete data sets. That derogation should cease to apply 5 years after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 to reflect the 5-year retention period for data sets for which the exit record is missing as set out in Article 34(3) of that Regulation.	(20) To ensure that national authorities and EU agencies, in the performance of their tasks, avoid taking decisions exclusively based on data registered in the EES, they should take into account that individual files registered in the EES may contain incomplete data sets <u>and should in any case not take decisions adversely affecting individuals exclusively on the basis that a registration of an alleged entry or exit is absent in the EES</u> . That derogation should cease to apply 5 years after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 to	(20) To ensure that national authorities and EU <u>Union</u> agencies, in the performance of their tasks, avoid taking decisions exclusively based on data registered in the EES, they should take into account that individual files registered in the EES may contain incomplete data sets. That derogation should cease to apply 5 years after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 to reflect the 5-year retention period for data sets for which the exit record is missing as set out in Article 34(3) of that Regulation. <u>Entry and exit records created</u>	

Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	reflect the 5-year retention period for data sets for which the exit record is missing as set out in Article 34(3) of that Regulation.	<u>during the progressive start of operations should not be used for automated reporting, nor for automated processes, including ETIAS.</u>	
Recital 21			
31	(21) When ensuring compliance with the provisions in Regulation (EU) 2017/2226 on the amendment of data and advance data erasure, Member States should complete the incomplete data to the extent permitted by the limited availability of the sets of data registered in the EES during the progressive start of operations.	(21) When ensuring compliance with the provisions of Regulation (EU) 2017/2226 on the amendment of data and advance data erasure, Member States should complete the incomplete data to the extent permitted by the limited availability of the sets of data registered in the EES during the progressive start of operations.	
Recital 22			
32	(22) The European Border and Coast Guard Agency should refrain from using data registered in the EES during the progressive start of operations for carrying out risk analyses and vulnerability assessments due to the incompleteness of the data that could lead to misleading risk and vulnerability assessments.	(22) The European Border and Coast Guard Agency should refrain from using <u>not access</u> data registered in the EES during the progressive start of operations for carrying out risk analyses and vulnerability assessments due to the incompleteness of the data that could lead to misleading risk and vulnerability assessments.	
Recital 23			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
33	(23) To ensure effective management of the external borders during the progressive start of operations of the EES, at the border crossing points at which the EES is not operated, border checks should be carried out in accordance with Regulation (EU) 2016/399 as applicable [the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226]. At the border crossing points at which the EES is operated, border checks should be carried out in accordance with Regulation (EU) 2017/2226 and the Schengen Borders Code. However, specific derogations from these Regulations should apply with regards to the verification at the border crossing points at which the EES is operated without biometric functionalities to enable the progressive start of operations. This should happen without prejudice to verifications of visa holders by using fingerprints, in accordance with Regulation (EC) 787/2008.	(23) To ensure effective management of the external borders during the progressive start of operations of the EES, at the border crossing points at which the EES is not operated, border checks should be carried out in accordance with Regulation (EU) 2016/399 as applicable [the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226]. At the border crossing points at which the EES is operated, border checks should be carried out in accordance with Regulation (EU) 2017/2226 and the Schengen Borders Code. However, specific derogations from these Regulations should apply with regards to the verification at the border crossing points at which the EES is operated without biometric functionalities to enable the progressive start of operations. This should happen without prejudice to verifications of visa holders by using fingerprints, in accordance with Regulation (EC) 787/2008 787/2008 <u>767/2008</u>.	(23) To ensure effective management of the external borders during the progressive start of operations of the EES, <u>specific rules should apply</u>. At the border crossing points at which the EES is not operated, border checks should be carried out in accordance with Regulation (EU) 2016/399 as applicable the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/22267. At the border crossing points at which the EES is operated, border checks should be carried out in accordance with Regulation <u>Regulations</u> (EU) 2017/2226 and the Schengen Borders Code. However, (EU) <u>2016/399 with specific</u> derogations from these Regulations should <u>established under this Regulation to be applied</u> with regards to the verification at the border crossing points at which the EES is operated without biometric functionalities to enable the progressive start of operations <u>of the EES</u>. This should happen	

Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		without prejudice to verifications of visa holders by using fingerprints, in accordance with Regulation (EC) 787/2008 767/2008 .	
Recital 24			
(24) To enable an effective adjustment of technical and organisational arrangements during the progressive start of operations of the EES in each Member State and to address exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at their borders, Member States should have the possibility to suspend the operations of the EES at certain border crossing points, fully or partially. In case of partial suspension, the registration of biometric data in the EES should be suspended. In case of full suspension, no data should be registered in the EES. To mitigate additional risks related to the deployment of the EES with biometric functionalities, Member States should have the possibility, in exceptional circumstances leading to traffic of such intensity	(24) To enable an effective adjustment of technical and organisational arrangements during the progressive start of operations of the EES in each Member State and to address potential exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at their borders, <u>during the period of the progressive start of operations of the EES</u>, Member States should have the possibility to suspend the operations of the EES at certain border crossing points, fully or partially. In case of partial suspension, the registration of biometric data in the EES should be suspended. In case of full suspension, no data should be registered in the EES. To mitigate additional risks related to the deployment of the EES with biometric functionalities <u>In both cases, Member States should</u>	(24) To enable an effective adjustment of technical and organisational arrangements during the progressive start of operations of the EES in each Member State and to address exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at their borders, <u>all</u> Member States, <u>regardless of whether they start using the EES fully or progressively</u>, should have the possibility to suspend the operations of the EES at certain border crossing points, fully or partially. In case of partial suspension, the registration of biometric data in the EES should be suspended. In case of full suspension, no data should be registered in the EES. <u>The use of the suspension mechanism does not affect obligations as regards the timeline for the progressive</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations. Such a suspension should be possible for a limited period of 60 days after the end of the progressive start of operations of the EES, and should be extended by 60 days if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data.	<u>promptly inform the operators of infrastructure hosting border crossing points and carriers. No later than 6 hours after the start of the suspension, Member States should notify to the Commission and eu-LISA the reason for the full or partial suspension and its expected duration. Member States should have the possibility, in exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations. Such a suspension should be possible for a limited period of 60 days after the end of the progressive start of operations of the EES, and should be extended by 60 days if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data.</u>	<u>start of operations, but it may temporarily affect the envisaged percentages.</u> To mitigate additional risks related to the deployment of the EES with biometric functionalities, <u>all</u> Member States should have the possibility, in exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations <u>of the EES</u>. Such a suspension should be possible for <u>during</u> a limited period of 60 <u>90</u> days after the end of the progressive start of operations of the EES, and should be extended by 60 days if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data.	
Recital 24a				
34a		<u>(24a) To mitigate additional risks related to the deployment of the EES with biometric functionalities, Member States should have the possibility, in</u>		

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		<u>exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive, to suspend the registration of biometric data in the EES after the end of the progressive start of operations. Such a suspension should be possible for a limited period of 60 days after the end of the progressive start of operations of the EES.</u>		
Recital 25	(25) eu-LISA should issue reports on the statistics on the use of the system, which should serve to evaluate the system's performance, assess Member States compliance with the roll-out plans, identify areas for improvement, monitor compliance with the progressive start of operations of the EES, and support decision-making relating to the system's further development and optimisation.	(25) eu-LISA should issue publish reports on the statistics on the use of the system, which should serve to evaluate the system's performance, assess Member States compliance with the <u>eu-LISA high-level roll-out plan and the national</u> roll-out plans, identify areas for improvement, monitor compliance with the progressive start of operations of the EES, and support decision-making relating to the system's further development and optimisation. <u>Furthermore, eu-LISA should continue its regular reporting to its Management Board, which will in turn oversee the gradual roll-out of EES operations.</u>	(25) eu-LISA should issue reports on the statistics on the use of the <u>EES</u> system, which should serve to evaluate the system's performance, assess Member States compliance with the <u>eu-LISA high-level roll-out and the national</u> roll-out plans, identify areas for improvement, monitor compliance with the progressive start of operations of the EES, and support decision-making relating to the system's further development and optimisation. <u>In addition, eu-LISA should continue its usual reporting to its Management Board. The Management Board of eu-LISA should monitor the progressive start of EES operations.</u>	
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	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 26	(26) The preparatory work related to the roll-out plans should be triggered by the date of the entry into force of this Regulation. The progressive start of operations should apply from the date decided by the Commission in accordance with Article 66(1) of EES Regulation. As this Regulation provides for temporary derogations, it should cease to apply 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226. However, the derogatory rules on the application of transitional measures, access to EES data, verification by the carriers of stamps affixed in the travel documents and the suspension of the EES should apply for a limited period after the end of the progressive start of operations.	(26) The preparatory work related to the roll-out plans should be triggered by the date of <u>the entry into force of this Regulation. Member States which have not yet submitted their declaration of readiness are urged to do so within 30 days after</u> the entry into force of this Regulation. The progressive start of operations should apply from the date decided by the Commission in accordance with Article 66(1) of EES Regulation. As this Regulation provides for temporary derogations, it should cease to apply 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226. However, the derogatory rules on the application of transitional measures, access to EES data, verification by the carriers of stamps affixed in the travel documents and the suspension of the EES should apply for a limited period after the end of the progressive start of operations.	(26) The preparatory work related to the <u>eu-LISA high-level roll-out and the national</u> roll-out plans should be triggered by the date of the entry into force of this Regulation. The progressive start of operations <u>of the EES should start and the derogations established by this Regulation</u> should apply from the date decided by the Commission in accordance with Article 66(1) of EES Regulation <u>(EU) 2017/2226</u>. As this Regulation provides for temporary derogations, it should cease to apply 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226. However, the derogatory rules on the application of <u>the</u> transitional period and <u>the</u> transitional measures <u>provided for in Regulation (EU) 2017/2226, on the</u> access to EES data, <u>on the</u> verification by the carriers of stamps affixed in the travel documents and <u>on</u> the suspension of the EES should apply for a limited period after the end of the progressive start of operations <u>of the EES</u>.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Recital 27	(27) The objective of this Regulation, authorising derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/299 to provide for a progressive start of operations of the EES, cannot be sufficiently achieved by Member States but can rather, by reason of the scale and impact of the action, be better achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.	(27) The objective of this Regulation, authorising derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/2992016/399 to provide for a progressive start of operations of the EES, cannot be sufficiently achieved by Member States but can rather, by reason of the scale and impact of the action, be better achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives.	(27) <u>Since</u> the objective of this Regulation, <u>namely</u> authorising derogations from Regulation<u>Regulations</u> (EU) 2017/2226 and Regulation (EU) 2016/299<u>(EU) 2016/399</u> to provide for a progressive start of operations of the EES, cannot be sufficiently achieved by <u>the</u> Member States but can rather, by reason of the scale and imppact<u>effects</u> of the action, be better achieved at Union level. Therefore, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union <u>(TEU)</u>. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve those objectives<u>that objective</u>.	
37				
Recital 28	(28) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union, Denmark is not	(28) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union, Denmark is not	(28) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union, Denmark is not	
38				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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 should, 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.	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 should, 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.	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 should, 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.	
Recital 29				
39	(29) This Regulation does not constitute a development of the provisions of the Schengen acquis in which Ireland takes part in accordance with Council Decision 2002/192/EC. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	(29) This Regulation does not constitute a development of the provisions of the Schengen acquis in which Ireland takes part in accordance with Council Decision 2002/192/EC. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	(29) This Regulation does not constitute a development of the provisions of the Schengen acquis in which Ireland takes <u>does not take</u> part in accordance with Council Decision 2002/192/EC. Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	
Recital 30				
40	(30) 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	(30) 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	(30) 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	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	and the Republic of Iceland and the Kingdom of Norway concerning those states 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/EC.	and the Republic of Iceland and the Kingdom of Norway concerning those states 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/EC.	and the Republic of Iceland and the Kingdom of Norway concerning those states <u>the latter's</u> 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/EC.	
Recital 31				
41	(31) 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/EC.	(31) 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/EC.	(31) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen <u>acquis</u> acq#is 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/EC.	
Recital 32				
42	(32) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between	(32) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between	(32) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen <u>acquis</u> acq#is within the meaning of the Protocol	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	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/EU.	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/EU.	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 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/EU.	
Recital 33				
43	(33) As regards Cyprus, the provisions of this Regulation relating to the VIS constitute provisions building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 3(2) of the 2003 Act of Accession. The operation of the EES requires the granting of passive access to the VIS. As the EES is only to be operated by those Member States that fulfil the conditions related to VIS at the start of the operation of the EES, Cyprus will not operate	(33) As regards Cyprus, the provisions of this Regulation relating to the VIS constitute provisions building upon, or otherwise relating to, the Schengen acquis within the meaning of Article 3(2) of the 2003 Act of Accession. The operation of the EES requires the granting of passive access to the VIS. As the EES is only to be operated by those Member States that fulfil the conditions related to VIS at the start of the operation of the EES, Cyprus will not operate	(33) As regards Cyprus, the provisions of this Regulation relating to the VIS constitute provisions building upon, or otherwise relating to, the Schengen acquis acquis within the meaning of Article 3(2) of the 2003 Act of Accession. The operation of the EES requires the granting of passive access to the VIS. As the EES is only to be operated by those Member States that fulfil the conditions related to VIS at the start of the operation of the EES, Cyprus will not operate	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the EES from the start of operations. Cyprus is to be connected to the EES as soon as the conditions of the procedure referred to in Regulation (EU) 2017/2226 are met.	the EES from the start of operations. Cyprus is to be connected to the EES as soon as the conditions of the procedure referred to in Regulation (EU) 2017/2226 are met.	the EES from the start of operations. Cyprus is to be connected to the EES as soon as the conditions of the procedure referred to in Regulation (EU) 2017/2226 are met.	
Recital 34				
44	(34) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its opinion on [xx].	(34) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its opinion on [xx].	(34) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered its opinion on [xx].	
Recital 35				
45	(35) This Regulation establishes strict rules concerning access to the EES, as well as the necessary safeguards for such access. It also sets out the individuals' rights of access, rectification, completion, erasure and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the	(35) This Regulation establishes strict rules concerning access to the EES, as well as the necessary safeguards for such access. It also sets out the individuals' rights of access, rectification, completion, erasure and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities. This Regulation therefore respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the	(35) This Regulation establishes strict rules concerning access to the EES, as well as the necessary safeguards for such access <u>during the progressive of operations of the EES and for a certain period after the end of the progressive start of operations of the EES</u> . It also sets out <u>maintains</u> the individuals' rights of access, rectification, completion, erasure and redress, in particular the right to a judicial remedy and the supervision of processing operations <u>of EES data</u> by public independent authorities. This Regulation therefore respects the fundamental rights and observes	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, the protection of personal data, the right to non-discrimination, the rights of the child, the rights of the elderly, the integration of persons with disabilities and the right to an effective remedy and to a fair trial.	prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, the protection of personal data, the right to non-discrimination, the rights of the child, the rights of the elderly, the integration of persons with disabilities and the right to an effective remedy and to a fair trial.	the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the right to human dignity, the prohibition of slavery and forced labour, the right to liberty and security, respect for private and family life, the protection of personal data, the right to non-discrimination, the rights of the child, the rights of the elderly, the integration of persons with disabilities and the right to an effective remedy and to a fair trial.	
Recital 36				
46	(36) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.	(36) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.	(36) This Regulation is without prejudice to the obligations deriving from the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as supplemented by the New York Protocol of 31 January 1967.	
Formula				
47	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
Article 1				
48	Article 1 Subject matter	Article 1 Subject matter	Article 1 Subject matter	
Article 1, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
49	This Regulation lays down rules on a progressive start of operations of the Entry/Exit System (EES) at the borders of the Member States at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226 and temporary derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	This Regulation lays down rules on a progressive start of operations of the Entry/Exit System (EES) at the borders of the Member States at which the EES is operated in accordance with Article 4 of Regulation (EU) 2017/2226 and temporary derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	This Regulation lays down rules on a progressive start of operations of the Entry/Exit System <u>established under Regulation (EU) 2017/2226 (the 'EES'EES)</u> at the borders of the Member States at which the EES is operated in accordance with Article 4 of <u>that</u> Regulation (EU) <u>2017/2226</u> and temporary derogations <u>of certain provisions from Regulations from Regulation</u> (EU) 2017/2226 and <u>Regulation</u> (EU) 2016/399.	
Article 2				
50	Article 2 Definitions	Article 2 Definitions	Article 2 Definitions	
Article 2, first paragraph				
51	For the purposes of this Regulation, the definitions in Article 3(1) of Regulation (EU) 2017/2226 apply. In addition, the following definitions apply:	For the purposes of this Regulation, the definitions in Article 3(1) of Regulation (EU) 2017/2226 apply. In addition, the following definitions apply:	For the purposes of this Regulation, the definitions in Article 3(1) of Regulation (EU) 2017/2226 apply. In addition, the following definitions apply:	
Article 2, first paragraph, point (a)				
52	(a) 'progressive start of operations of the EES' means the period of 180 calendar days starting from the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) 'progressive start of operations of the EES' means the period of 180 calendar days starting from the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) 'progressive start of operations of the EES' means the period of 180 calendar days starting from the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 2, first paragraph, point (b)			
53	(b) ‘national authorities’ means the authorities referred to in Article 9 of Regulation (EU) 2017/2226;	(b) ‘national authorities’ means the authorities referred to in Article 9 of Regulation (EU) 2017/2226;	(b) ‘national authorities’ means the authorities referred to in Article 9 of Regulation (EU) 2017/2226;	
	Article 2, first paragraph, point (c)			
54	(c) ‘estimated number of border crossings’ means a Member State’s estimate of the number of border crossings of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 in each Member State based on the yearly average of the total number of border crossings of third-country nationals travelling for a short stay in that Member State calculated for the preceding 3 years from the date of application referred to in Article 8(1), second subparagraph, of this Regulation.	(c) ‘estimated number of border crossings’ means a Member State’s estimate of the number of border crossings of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 in each Member State based on the yearly average of the total number of border crossings of third-country nationals travelling for a short stay in that Member State—calculated for the preceding 3 two calendar years from the date of application referred to in Article 8(1), second subparagraph, of this Regulation.	(c) ‘estimated number of border crossings’ means a Member State’s estimate of the number of border crossings of third-country nationals as referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 in each Member State based on the yearly average of the total number of border crossings of third-country nationals travelling for a short stay into that Member State— for a short stay calculated for the 3 years preceding 3 years from the date of application—referred to in Article 8(1), second subparagraph, of this Regulation. <u>Estimations shall be determined based on the border crossings at the borders referred to in Article 4 of Regulation (EU) 2017/2226.</u>	
	Article 3			
55	Article 3 Roll-out plans	Article 3 <u>Article 3</u>	Article 3 Roll-out plans <u>and reporting</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 3(1)	1. By [the 30th calendar day after the entry into force of this Regulation], the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall provide the Commission, Member States, as well as Europol, with a high-level roll-out plan on the progressive start of operations of the EES, taking into account the phases set out in Article 4. That roll-out plan shall include guidance on the use of the EES to Member States and Europol, including capacity limits of the EES Central System.	1. By [the 30th calendar day after the entry into force of this Regulation], the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall provide the <u>European Parliament, the Commission, Member States, as well as Europol</u>, with a high-level roll-out plan on the progressive start of operations of the EES, taking into account the phases set out in Article 4. That roll-out plan shall <u>support the effective and continuous operation of the EES Central System</u>, include <u>fall-back procedures for the functioning of the EES Central System and provide</u> guidance on the use of the EES to <u>the end-users, including Member States and Europol, including capacity limits of the EES Central System</u>.	1. By [the 30th <u>30th</u> <u>the</u> <u>office: 30</u> calendar day after <u>days from</u> the entry into force of this Regulation], the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall provide the Commission, Member States, as well as Europol, with a high-level roll-out plan (<u>the 'eu-LISA high-level roll-out plan'</u>) on the progressive start of operations of the EES, taking into account the phases set out in <u>paragraphs 2 to 5 of Article 4</u>. That roll-out plan shall include guidance on the use of the EES <u>to</u> Member States and Europol, including capacity limits on the use of the EES, <u>This plan shall confirm performance and availability targets of the central system as well as the strategy regarding eventual functional minor, major and blocking defects.</u>	
56				
Article 3(2)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
57	2. By [the 60th calendar day after the entry into force of this Regulation], in consultation with the Commission and eu-LISA, Member States shall develop a national roll-out plan on the progressive start of operations of the EES, taking into account the high-level roll-out plan referred to in paragraph 1 of this Article and the phases set out in Article 4.	2. By [the 60th calendar day after the entry into force of this Regulation], in consultation with the Commission and eu-LISA, Member States shall develop a <u>national roll-out plan plans</u> on the progressive start of operations of the EES, taking into account the high-level roll-out plan referred to in paragraph 1 of this Article and <u>present those plans to the Commission. Where a Member State does not start operating the EES fully from the beginning of the progressive start of operations of the EES, the national roll-out plan shall specify how the thresholds and requirements the phases</u> set out in Article 4 <u>shall be met. EU-Lisa shall assess whether the national roll-out plans are consistent with the high-level roll-out plan and shall confirm that they do not contain any deficiencies which could further delay the entry into operation of the EES. Member States shall inform relevant stakeholders of the border crossing points where they plan to start operating the EES and of their planned use of the biometric functionalities of the EES.</u>	2. By [the 60th <u>OJ office: 60</u> calendar day after <u>days from</u> the entry into force of this Regulation], in consultation with the Commission and eu-LISA, <u>each</u> Member States <u>State</u> shall develop a national roll-out plan on the progressive start of operations of the EES, taking into account the <u>eu-LISA</u> high-level roll-out plan <u>referred to in paragraph 1 of this Article</u> and the phases set out in Article 4.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 3(3)				
58	3. For each of the phases set out in Article 4, the national roll-out plans shall include the information on the thresholds and requirements set out in that Article.	3. For each of the phases set out in Article 4, the national roll-out plans shall include the information on the thresholds and requirements set out in that Article.	3. For each of the phases set out in Article 4, the national roll-out plans shall include the information on the thresholds and requirements set out in that Article.;	
Article 3(4)				
59	4. From the 30 th calendar day after the progressive start of operations of the EES, Member States shall provide monthly reports to the Commission and eu-LISA on the implementation of their national roll-out plans, including corrective measures where necessary to comply with the obligations set out in Article 4.	4. From the 30 th calendar day after the progressive date from <u>which the EES is to start of</u> operations of the EES as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226 , Member States shall provide monthly reports to <u>the European Parliament</u> , the Commission and eu-LISA on the implementation of their national roll-out plans, including corrective measures where necessary to comply with the obligations set out in Article 4.	4. From the 30 th calendar day after <u>the first day</u> the progressive start of operations of the EES, Member States shall provide monthly reports to the Commission and eu-LISA confirming the implementation of their national roll-out plans, including or identifying corrective measures, where necessary, to comply with the obligations set out in Article 4.	
Article 3(5)				
60	5. At the request of the Commission, eu-LISA shall provide the Commission with the statistics necessary for the monitoring of the national roll-out plans, in accordance with Article	5. At the request of the Commission, eu-LISA shall provide the Commission with the statistics necessary for the monitoring of <u>Commission to monitor the implementation of the high-level roll-out plan and</u>	5. At the request of the Commission, eu-LISA shall provide the Commission with the statistics necessary for the monitoring of the <u>eu-LISA high-level roll-out plan and the</u> national roll-out plans, in	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	63(6) of Regulation (EU) 2017/2226.	the national roll-out plans, in accordance with Article 63(6) of Regulation (EU) 2017/2226.	accordance with Article 63(6) of Regulation (EU) 2017/2226.	
Article 3(5a)				
60a		<u>5a. The eu-Lisa Management Board shall adopt the high-level roll-out plan referred to in paragraph 1. The Management Board shall also monitor the stability of the EES Central System during the progressive start of operations and suggest additional actions where appropriate.</u>	<u>5a. The eu-LISA Management Board shall adopt the eu-LISA high-level roll-out plan referred to in paragraph 1 of this Article. The eu-LISA Management Board shall also monitor the development of the EES Central System in accordance with Article 19 of Regulation (EU) 2018/1726, in particular as regards the progressive start of operations.</u>	
Article 3(5b)				
60b		<u>5b. The Commission shall issue guidelines to facilitate the provision of concise national roll-out plans and monthly reports by the Member States.</u>		
Article 3(5c)				
60c		<u>5c. The Commission, in consultation with the European Data Protection Supervisor, shall issue guidelines on the processing of personal data in the EES during the progressive start of operations.</u>		
Article 4				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
61	Article 4 Progressive start of operations	Article 4 Progressive start of operations	Article 4 Progressive start of operations	
Article 4(1)				
62	1. By way of derogation from Article 66(6) of Regulation (EU) 2017/2226 during the progressive start of operations of the EES, the Member States shall use the EES as set out in this Article.	1. By way of derogation from Article 66(6) of Regulation (EU) 2017/2226 during the progressive start of operations of the EES, the Member States shall use the EES as set out in this Article.	1. By way of derogation from Article 66(6) of Regulation (EU) 2017/2226 during the progressive start of operations of the EES, the Member States shall use the EES as set out in paragraphs 2 to 6 of this Article .	
Article 4(2), first subparagraph				
63	2. From the first day of the progressive start of operations of the EES, each Member State shall start using the EES on entry and exit at one or more border crossing points with, if possible and applicable, a combination of air, land and sea border crossing points, to record and store data of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226. Member States shall register in the EES at least 10% of the estimated number of border crossings in that Member State.	2. From the first day of the progressive start of operations of the EES, each Member State shall start using the EES on entry and exit at one or more border crossing points with, if possible and applicable, a combination of air, land and sea border crossing points, to record and store data of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226. No later than the 30th calendar day of the progressive start of operations of the EES , Member States shall register in the EES at least 10% of the estimated number of border crossings in that Member State.	2. From the first day of the progressive start of operations of the EES, each Member State shall start using the EES on entry and exit at one or more border crossing points with, if possible and applicable, a combination of air, land and sea border crossing points, to record and store data of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226. By the 30th calendar day from the first day of the progressive start of operations of the EES , Member States shall register in the EES at least 10% of the estimated number of border crossings in that Member State.	
Article 4(2), second subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
64	For the first 60 calendar days of the progressive start of operations of the EES, Member States may operate the EES without biometric functionalities, and national authorities may create or update individual files without biometric data.	For the first 60 calendar days of the progressive start of operations of the EES, Member States may operate the EES without biometric functionalities, and national authorities may create or update individual files without biometric data.	For <u>During</u> the first 60 calendar days of the progressive start of operations of the EES, Member States may operate the EES without biometric functionalities, and national authorities may create or <u>and</u> update individual files without biometric data.	
Article 4(3)				
65	3. No later than the 90 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at least at half of their border crossing points. Member States shall register at least 50% of the estimated number of border crossings in that Member State. The individual files of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 that are registered in the EES shall contain biometric data.	3. No later than the 90 th calendar day after <u>of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at least at half of their border crossing points. Member States shall register at least 50% <u>35%</u> of the estimated number of border crossings in that Member State. The individual files of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 that are registered in the EES shall contain biometric data.	3. No later than <u>By</u> the 90 th calendar day after <u>from the first day of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at least at half of their border crossing points. Member States shall register <u>in the EES</u> at least 50% of the estimated number of border crossings in that Member State. The individual files of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 that are registered in the EES shall contain biometric data.	
Article 4(4)				
66	4. No later than the 150 th calendar day after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities	4. No later than the 150 th calendar day after <u>of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities	4. No later than <u>By</u> the 150 th calendar day after <u>from the first day of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	at all their border crossing points and shall continue registering in the EES at least 50% of the estimated number of border crossings in that Member State.	functionalities at all their border crossing points and shall continue registering in the EES at least 50% of the estimated number of border crossings in that Member State.	biometric functionalities at all their border crossing points and shall continue registering in the EES at least 50% of the estimated number of border crossings in that Member State.	
Article 4(5)				
67	5. No later than the 170 th calendar days after the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall register in the EES all third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226.	5. No later than the 170 th calendar days after <u>day of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall register in the EES all third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226.	5. No later than <u>By</u> the 170 th calendar days after <u>day from the first day of</u> the progressive start of operations of the EES, Member States shall operate the EES with biometric functionalities at all their border crossing points and shall register in the EES all third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226.	
Article 4(6)				
68	6. Refusals of entry, decided at a border crossing point at which the EES is operated, shall be recorded in the EES, as set out in Article 18 of Regulation (EU) 2017/2226. Where the EES is operated with biometric functionalities, refusals of entry shall be recorded with biometric data. Where the EES is operated without biometric functionalities, refusals of entry shall be recorded without biometric data.	6. Refusals of entry, decided at a border crossing point at which the EES is operated, shall be recorded in the EES, as set out in Article 18 of Regulation (EU) 2017/2226. Where the EES is operated with biometric functionalities, refusals of entry shall be recorded with biometric data. Where the EES is operated without biometric functionalities, refusals of entry shall be recorded without biometric data.	6. Refusals of entry, decided at a border crossing point at which the EES is operated, shall be recorded in the EES, as set out <u>in accordance with</u> Article 18 of Regulation (EU) 2017/2226. <u>For the purpose of this paragraph,</u> where the EES is operated with biometric functionalities, refusals of entry shall be recorded with biometric data- <u>and</u> where the EES is operated without biometric functionalities, refusals of entry	

Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
		shall be recorded without biometric data, <u>except where the biometric data may be retrieved from the VIS</u> .	
Article 4(7)			
69	7. From the first day of the progressive start of operations of the EES, Europol shall use the EES as provided for in Regulation (EU) 2017/2226.	7. From the first day of the progressive start of operations of the EES, Europol shall use the EES as provided for in Regulation (EU) 2017/2226.	
Article 5			
70	Article 5 Other derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399	Article 5 Other derogations from Regulation (EU) 2017/2226 and Regulation (EU) 2016/399	
Article 5(1)			
71	1. In addition to the rules of Article 4, the rules set out in this Article shall apply during the progressive start of operations of the EES.	1. In addition to the rules of Article 4, the rules set out in this Article shall apply during the progressive start of operations of the EES.	
Article 5(2), first subparagraph			
72	2. Border authorities shall systematically stamp the travel documents of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 on entry and exit.	2. Border authorities shall systematically stamp the travel documents of third-country nationals referred to in Article 2(1) and (2) of Regulation (EU) 2017/2226 on entry and exit.	
Article 5(2), second subparagraph			

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
73	The stamping obligations referred to in Article 42a(1), second subparagraph, and Article 42a(2), (5) and (6) of Regulation (EU) 2016/399 shall apply mutatis mutandis in the Member States operating the EES.	The stamping obligations referred to in Article 42a(1), second subparagraph, and Article 42a(2), (5) and (6) of Regulation (EU) 2016/399 shall apply mutatis mutandis in the Member States operating the EES.	The stamping obligations referred to in Article 42a(1), second subparagraph, and Article 42a(2), (5) and (6) of Regulation (EU) 2016/399 shall apply mutatis mutandis in the Member States operating the EES.	
Article 5(3)				
74	3. For entering, amending, erasing and consulting the data in the EES, national authorities that are competent for the purposes laid down in Articles 23 to 35 of Regulation (EU) 2017/2226 shall consider stamps as prevailing over the EES data, including in cases of discrepancy or in cases referred to in Article 16(4) of that Regulation. The data recorded in the EES shall prevail in case a stamp is missing.	3. For entering, amending, erasing and consulting the data in the EES, national authorities that are competent for the purposes laid down in Articles 23 to 35 of Regulation (EU) 2017/2226 shall consider stamps as prevailing over the EES data, including in cases of discrepancy or in cases referred to in Article 16(4) of that Regulation. The data recorded in the EES shall prevail in case a stamp is missing.	3. For entering, amending, erasing and consulting the data in the EES, national authorities that are competent for the purposes laid down in Articles 23 to 35 of Regulation (EU) 2017/2226 shall consider stamps as prevailing over the EES data, including in cases of discrepancy or in cases referred to in Article 16(4) of that Regulation. The data recorded in the EES shall prevail in case a stamp is missing.	
Article 5(3), point (a)				
74a			<u>(a) consider stamps affixed as prevailing where there is no relevant EES data,</u>	
Article 5(3), point (b)				
74b			<u>(b) consider EES data as prevailing;</u>	
Article 5(3), point (b)(i)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
74c			<u>(i) where there is discrepancy between the individual file containing biometric data and the stamp affixed, or</u>	
Article 5(3), point (b)(ii)				
74d			<u>(ii) where a stamp is missing;</u>	
Article 5(3), point (c)				
74e			<u>(c) decide on a case-by-case basis whether the stamp or the EES data is prevailing;</u>	
Article 5(3), point (c)(i)				
74f			<u>(i) where there is a discrepancy between the individual file without biometric data and the stamp affixed according to paragraph 2; or</u>	
Article 5(3), point (c)(ii)				
74g			<u>(ii) in cases referred to in Article 16(4) of Regulation (EU) 2017/2226.</u>	
Article 5(4), first subparagraph				
75	4. In the absence of a stamp affixed in the travel document and of an individual file created in the EES for a third-country national present in the territory of the Member States, national authorities may presume that the	4. In the absence of a stamp affixed in the travel document and of an individual file created in the EES for a third-country national present in the territory of the Member States, national authorities may presume that the	4. In the absence of a stamp affixed in the travel document and of an individual file created in the EES for a third-country national present in the territory of the Member States State, national authorities may presume that the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	third-country national does not fulfil or no longer fulfils the conditions relating to entry or stay in the Member States.	third-country national does not fulfil or no longer fulfils the conditions relating to entry or stay in the Member States.	third-country national does not fulfil, or no longer fulfils, the conditions relating to entry or stay in the Member States.	
Article 5(4), second subparagraph				
76	This presumption shall not apply to third-country nationals who can provide, by any means, credible evidence that they enjoy the right of free movement under Union law, have a right of residence in a host Member State under the EU–UK Withdrawal Agreement, or that they hold a residence permit or a long-stay visa.	This presumption shall not apply to third-country nationals who can provide, by any means, credible evidence that they enjoy the right of free movement under Union law, have a right of residence in a host Member State under the EU–UK Withdrawal Agreement , or that they hold a residence permit or a long-stay visa.	This <u>The</u> presumption <u>referred to in the first subparagraph</u> shall not apply to third-country nationals who can provide, by any means, credible evidence that they enjoy the right of free movement under Union law, have a right of residence in a host Member State under the EU–UK Withdrawal Agreement , or that they hold a residence permit or a long-stay visa.	
Article 5(4), third subparagraph				
77	This presumption may be rebutted where the third-country nationals provide, by any means, credible evidence that they have respected the conditions relating to the duration of a short stay.	This presumption may be rebutted where the third-country nationals provide, by any means, credible evidence that they have respected the conditions relating to the duration of a short stay.	This <u>The</u> presumption <u>referred to in the first subparagraph</u> may be rebutted where the third-country nationals provide, by any means, credible evidence, <u>such as</u> <u>transport tickets or proof of presence outside the territory of the Member States or of the date of expiry of a previous residence permit or long-stay visa</u> , that they have respected the conditions relating to the duration of a short stay.	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	Article 5(4), fourth subparagraph			
78	Where the presumption is rebutted, national authorities shall perform one or more of the following tasks at the border crossing points at which the EES is operated, to the extent allowed by this Regulation:	Where the presumption is rebutted, national authorities shall perform one or more of the following tasks at the border crossing points at which the EES is operated, to the extent allowed by this Regulation:	Where the presumption is rebutted, national authorities <u>using the EES</u> shall perform one or more of the following tasks at the border crossing points at which the EES is operated , to the extent allowed by this Regulation:	
	Article 5(4), fourth subparagraph, point (a)			
79	(a) create an individual file for that third-country national in the EES, if necessary;	(a) create an individual file for that third-country national in the EES, if necessary;	(a) create an individual file for that third-country national in the EES, if necessary;	
	Article 5(4), fourth subparagraph, point (b)			
80	(b) update the latest entry/exit record by entering the missing data;	(b) update the latest entry/exit record by entering the missing data;	(b) update the latest entry/exit record by entering the missing data;	
	Article 5(4), fourth subparagraph, point (c)			
81	(c) erase an existing file where Article 35 of Regulation (EU) 2017/2226 provides for such erasure.	(c) erase an existing file where Article 35 of Regulation (EU) 2017/2226 provides for such erasure.	(c) erase an existing file where Article 35 of Regulation (EU) 2017/2226 provides for such erasure.	
	Article 5(5)			
82	5. Border authorities shall make use of the interoperability between the EES and the VIS referred to in Article 8(2) of Regulation (EU) 2017/2226 only at the border crossing points at which the EES is operated. Border	5. Border authorities shall make use of the interoperability between the EES and the VIS referred to in Article 8(2) of Regulation (EU) 2017/2226 only at the border crossing points at which the EES is operated. Border	5. Border authorities shall make use of the interoperability between the EES and the VIS referred to in Article 8(2) of Regulation (EU) 2017/2226 only at the border crossing points at which the EES is operated. Border	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	authorities shall continue accessing the VIS directly:	authorities shall continue accessing the VIS directly:	authorities shall continue accessing the VIS directly:	
Article 5(5), point (a)				
83	(a) at the border crossing points at which the EES is not operated;	(a) at the border crossing points at which the EES is not operated;	(a) at the border crossing points at which the EES is not operated;	
Article 5(5), point (b)				
84	(b) where the EES is suspended in accordance with Article 7 of this Regulation.	(b) where the EES is suspended in accordance with Article 7 of this Regulation.	(b) where the EES is suspended in accordance <u>pursuant to</u> Article 7 of this Regulation.	
Article 5(6)				
85	6. National authorities and Europol shall disregard the following:	6. National authorities and Europol shall disregard the following:	6. National authorities and Europol shall disregard the following:	
Article 5(6), point (a)				
86	(a) the results of the automated calculator that provides information on the maximum duration of the authorised stay referred to in Article 11 of Regulation (EU) 2017/2226;	(a) the results of the automated calculator that provides information on the maximum duration of the authorised stay referred to in Article 11 of Regulation (EU) 2017/2226;	(a) the results of the automated calculator that provides information on the maximum duration of the authorised stay referred to in Article 11 of Regulation (EU) 2017/2226;	
Article 5(6), point (b)				
87	(b) the automatically generated list of overstayers and its consequences in particular as referred to in Article 6(1), points (c) and (h), Article 12(3), Article 16(4), Article 34(3), Article 50(1),	(b) the automatically generated list of overstayers and its consequences in particular as referred to in Article 6(1), points (c) and (h), Article 12(3), Article 16(4), Article 34(3), Article 50(1),	(b) the automatically generated list of overstayers and its consequences in particular as referred to in Article 6(1), points (c) and (h), Article 12(3), Article 16(4), Article 34(3), Article 50(1),	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	points (i) and (k), Article 63(1), point (e) of that Regulation.	points (i) and (k), Article 63(1), point (e) of that Regulation.	points (i) and (k), Article 63(1), point (e) of that Regulation.	
Article 5(7)				
88	7. Processing operations by Member States that comply with this Regulation shall not be considered as unlawful or not compliant with Regulation (EU) 2017/2226 for the purposes of Articles 45 and 48 of that Regulation.	7. Processing operations by Member States that comply with this Regulation shall not be considered as unlawful or not compliant with Regulation (EU) 2017/2226 for the purposes of Articles 45 and 48 of that Regulation.	7. <u>For the purposes of Articles 45 and 48 of Regulation (EU) 2017/2226</u> , processing operations <u>of EES data</u> by Member States that comply <u>pursuant to</u> this Regulation shall not be considered as unlawful or <u>as</u> not compliant with Regulation (EU) 2017/2226 for the purposes of Articles 45 and 48 of that Regulation .	
Article 5(8)				
89	8. Verification of the identity and previous registration of third-country nationals pursuant to Article 23 of Regulation (EU) 2017/2226 shall be carried out on the third-country nationals referred to in Article 2(1) and (2) of that Regulation at the border crossing points at which the EES is operated with biometric functionalities, including through self-service systems, where available.	8. Verification of the identity and previous registration of third-country nationals pursuant to Article 23 of Regulation (EU) 2017/2226 shall be carried out on the third-country nationals referred to in Article 2(1) and (2) of that Regulation at the border crossing points at which the EES is operated with biometric functionalities, including through self-service systems, where available.	8. Verification of the identity and previous registration of third-country nationals pursuant to Article 23 of Regulation (EU) 2017/2226 shall be carried out on the third-country nationals referred to in Article 2(1) and (2) of that Regulation at the border crossing points at which the EES is operated with biometric functionalities, including through self-service systems, where available.	
Article 5(9), first subparagraph				
90	9. In addition to the specific information referred to in Article	9. In addition to the specific information referred to in Article	9. In addition to the specific information referred to in Article	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	50(5) of Regulation (EU) 2017/2226 that is to be added by the Member States in the template to provide information to third-country nationals about the processing of their personal data in the EES, Member States shall accompany the template to be handed over to third-country nationals at the time the individual file of the person concerned is being created with the following information:	50(5) of Regulation (EU) 2017/2226 that is to be added by the Member States in the template to provide information to third-country nationals about the processing of their personal data in the EES, Member States shall accompany the template to be handed over to third-country nationals at the time the individual file of the person concerned is being created with the following information:	50(5) of Regulation (EU) 2017/2226 that is to be added by the Member States in the template to provide information to third-country nationals <u>referred to in Article 2(1) and (2) of that Regulation</u> about the processing of their personal data in the EES, Member States shall accompany <u>complement</u> the template to be handed over <u>provided to those</u> third-country nationals at the time the individual file of the person concerned is being created – with the following information:	
Article 5(9), second subparagraph				
91	‘The Entry/Exit System is being progressively rolled out. During this roll-out period [from ...], your personal data, including your biometric data, might not be collected for the purposes of the Entry/Exit System at all Member States’ external borders. If we need to mandatorily collect this information and you choose not to provide it, you will be refused entry. During this period of the progressive roll-out your data will not be automatically added to a list of overstayers. In addition, you will not be able to check how	‘The Entry/Exit System is being progressively rolled out. During this roll-out period [from ...], your personal data, including your biometric data, might not be collected for the purposes of the Entry/Exit System at all Member States’ external borders. If we need to mandatorily collect this information and you choose not to provide it, you will be refused entry. During this period of the progressive roll-out your data will not be automatically added to a list of overstayers. In addition, you will not be able to check how	‘The Entry/Exit System is being progressively rolled out. During <u>the period of this progressive</u> this roll-out period [from ...], your personal data, including your biometric data, might not be collected for the purposes of the Entry/Exit System at all Member States’ external borders. If we need to mandatorily collect this information and you choose not to provide it, you will be refused entry. During this period of the progressive roll-out your data will not be automatically added to a list of overstayers. In addition, you	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	much longer you are authorised to stay using the website or equipment available at border crossing points.	much longer you are authorised to stay using the website or equipment available at border crossing points. <u>You may address any queries regarding the duration of your authorised stay to the relevant national authorities at the external borders.</u>	will not be able to check how much longer you are authorised to stay using the website or equipment available at border crossing points.	
Article 5(9), third subparagraph				
92	Please note that when the progressive roll-out of the EES is completed, your personal data will be processed according to the information provided in the document accompanying this form.'	Please note that when the progressive roll-out of the EES is completed, your personal data will be processed according to the information provided in the document accompanying this form.'	Please note that when the progressive roll-out of the EES is completed, your personal data will be processed according to the information provided in the document accompanying this form.'	
Article 5(10)				
93	10. The information on the EES website referred to in Article 50(3) of Regulation (EU) 2017/2226 shall be adapted by the Commission to reflect the progressive start of operations.	10. The information on the EES website referred to in Article 50(3) of Regulation (EU) 2017/2226 shall be adapted by the Commission to reflect the progressive start of operations.	10. The information on the EES website referred to in Article 50(3) of Regulation (EU) 2017/2226 shall be adapted by the Commission to reflect the progressive start of operations <u>of the EES.</u>	
Article 5(11)				
94	11. The information campaign referred to in Article 51 of Regulation (EU) 2017/2226 accompanying the start of operations of the EES, shall reflect	11. The information campaign referred to in Article 51 of Regulation (EU) 2017/2226 accompanying the start of operations of the EES, shall reflect	11. The information campaign referred to in Article 51 of Regulation (EU) 2017/2226 accompanying the start of operations of the EES, shall reflect	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	the specific conditions at the border crossing points, ensuring that the relevant information is communicated to those affected, and taking into account the phases set out in Article 4 of this Regulation. The Commission shall support Member States in preparing the adapted materials of the information campaign.	the specific conditions at the border crossing points, ensuring that the relevant information is communicated to those affected, and taking into account the phases set out in Article 4 of this Regulation. The Commission, <u>in cooperation with the European Data Protection Supervisor and national supervisory authorities</u> shall support Member States in preparing the adapted materials of the information campaign.	the specific conditions at the border crossing points, ensuring that the relevant information is communicated to those affected, and taking into account the phases set out in Article 4 of this Regulation. The Commission shall <u>adapt materials of the information campaign in a reasonable timeframe, prior to the start of operations. The Commission shall</u> support Member States in preparing the adapted materials of the information campaign.	
Article 5(12)	12. The application of Article 12(1) and (2), Article 13(1) and (2), Article 20 and Article 21 of Regulation (EU) 2017/2226 shall be suspended.	12. The application of Article 12(1) and (2), Article 13(1) and (2), Article 20 and Article 21 of Regulation (EU) 2017/2226 shall be suspended.	12. The application of <u>Article 11(3)</u> , Article 12(1) and (2), Article 13(1) and (2), Article 20 and Article 21 of Regulation (EU) 2017/2226, <u>as well as the application of Article 8(9) of Regulation (EU) 2016/399</u> -shall be suspended.	
95				
Article 5(13)	13. By way of derogation from Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399, the transitional period and the transitional measures set out in those Articles shall apply from the	13. By way of derogation from Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399, the transitional period and the transitional measures set out in those Articles shall apply from the	13. By way of derogation from Article 22 of Regulation (EU) 2017/2226 and Article 12a of Regulation (EU) 2016/399, the transitional period and the transitional measures set out in those Articles shall apply from the	
96				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	first day after the progressive start of operations of the EES has ended.	first day after the progressive start of operations of the EES has ended.	first day after the end of the progressive start of operations of the EES has ended .	
	Article 5(14), first subparagraph			
97	14. At the border crossing points at which the EES is not operated, border checks shall be carried out in accordance with Regulation (EU) 2016/399 as applicable on the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226.	14. At the border crossing points at which the EES is not operated, border checks shall be carried out in accordance with Regulation (EU) 2016/399 as applicable on the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226.	14. At the border crossing points at which the EES is not operated, border checks shall be carried out in accordance with Regulation (EU) 2016/399 as applicable on the day before the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226.	
	Article 5(14), second subparagraph			
98	At the border crossing points at which the EES is operated, border checks shall be carried out in accordance with Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	At the border crossing points at which the EES is operated, border checks shall be carried out in accordance with Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	At the border crossing points at which the EES is operated, border checks shall be carried out in accordance with Regulation (EU) 2017/2226 and Regulation (EU) 2016/399.	
	Article 5(14), third subparagraph			
99	By way of derogation from the second subparagraph, at the border crossing points where the EES is operated without biometric functionalities, Article 6(1), point (f)(i), and the provisions on the verification of third-country nationals based on biometric data,	By way of derogation from the second subparagraph, at the border crossing points where the EES is operated without biometric functionalities, Article 6(1), point (f)(i), and the provisions on the verification of third-country nationals based on biometric data,	By way of derogation from the second subparagraph, at the border crossing points where the EES is operated without biometric functionalities, Article 6(1), point (f)(i) of Regulation (EU) 2016/399 , and the provisions on the verification of third-country	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	solely for the purposes of the EES, referred to in Articles 6, point (f) (ii) and Article 8 (3), points (a) and (g) of Regulation (EU) 2016/399 shall not apply.	solely for the purposes of the EES, referred to in Articles 6, point (f) (ii) and Article 8 (3), points (a) and (g) of Regulation (EU) 2016/399 shall not apply.	nationals based on biometric data, solely for the purposes of the EES, referred to in Articles 66(1) , point (f) (ii) and Article 8 (3), points (a) and (g) of that Regulation (EU) 2016/399 shall not apply.	
Article 5(14), fourth subparagraph				
100	For the purposes of this Regulation, Article 9(3) and Article 12 of Regulation (EU) 2016/399 shall be suspended.	For the purposes of this Regulation, Article 9(3) and Article 12 of Regulation (EU) 2016/399 shall be suspended.	For the purposes of this Regulation, Article 9(3) and Article 12 of Regulation (EU) 2016/399 shall be suspended.	
Article 5(14a)				
100a			<u>14a. By way of derogation to Article 37 of Regulation (EU) 2017/2226, the Programme Management Board shall continue its activities until the end of the progressive start of operations of the EES, and in particular shall monitor such progressive start.</u>	
Article 6				
101	Article 6 Access to the EES data	Article 6 Access to the EES data	Article 6 Access to the EES data	
Article 6(1)				
102	1. When accessing the entry and exit records registered in the EES during the progressive start of operations of the EES in the performance of their tasks:	1. When accessing the entry and exit records registered in the EES during the progressive start of operations of the EES in the performance of their tasks:	1. When accessing the entry and exit records registered in the EES during the progressive start of operations of the EES in the performance of their tasks:	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
Article 6(1), point (a)				
103	(a) national authorities and Europol shall take into account that, due to the variable operations of the EES in each Member State during the progressive start of operations of the EES, the data could be incomplete;	(a) national authorities and Europol shall take into account that, due to the variable operations of the EES in each Member State during the progressive start of operations of the EES, the data could be incomplete;	(a) national authorities and Europol shall take into account that, due to the variable operations of the EES in each Member State during the progressive start of operations of the EES, the data could be incomplete;	
Article 6(1), point (aa)				
103a		<u>(aa) national authorities and Europol shall not take decisions adversely affecting individuals solely on the basis that a registration of an alleged entry or exit is absent in the EES;</u>		
Article 6(1), point (b)				
104	(b) national authorities shall take into account that the data could be incomplete when communicating data in accordance with Articles 41 and 42 of Regulation (EU) 2017/2226;	(b) national authorities shall take into account that the data could be incomplete when communicating data in accordance with Articles 41 and 42 of Regulation (EU) 2017/2226;	(b) national authorities shall take into account that the data could be incomplete when communicating data in accordance with Articles 41 and 42 of Regulation (EU) 2017/2226;	
Article 6(1), point (c)				
105	(c) the ETIAS Central Unit shall take into account that the entry and exit records registered in the EES during the progressive start of operations of the EES could include incomplete sets of data for the purpose of verification	(c) the ETIAS Central Unit shall take into account that the entry and exit records registered in the EES during the progressive start of operations of the EES could include incomplete sets of data for the purpose of verification	(c) the ETIAS Central Unit shall take into account that the entry and exit records registered in the EES during the progressive start of operations of the EES could include incomplete sets of data for the purpose of verification	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	in accordance with Article 25a(2) of Regulation (EU) 2017/2226.	in accordance with Article 25a(2) of Regulation (EU) 2017/2226.	in accordance with Article 25a(2) of Regulation (EU) 2017/2226.	
Article 6(2)				
106	2. Competent authorities, the Commission and relevant Union agencies shall take into account that the data registered in the EES during the progressive start of operations of the EES may be incomplete when accessing data for reporting and statistics as referred in Article 63 of Regulation EU 2017/2226.	2. Competent authorities, the Commission and relevant Union agencies shall take into account that the data registered in the EES during the progressive start of operations of the EES may be incomplete when accessing data for reporting and statistics as referred in Article 63 of Regulation EU 2017/2226.	2. Competent authorities, the Commission and relevant Union agencies shall take into account that the data registered in the EES during the progressive start of operations of the EES may<u>could</u> be incomplete when accessing data for <u>the purpose of</u> reporting and statistics as referred in <u>accordance with</u> Article 63 of Regulation EU 2017/2226.	
Article 6(3), first subparagraph				
107	3. By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES. Carriers shall verify the stamps affixed in the travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and under Council Directive 2001/51/EC for the duration of the progressive start of operations of the EES.	3. By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES. Carriers shall verify the stamps affixed in the travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and under Council Directive 2001/51/EC for the duration of the progressive start of operations of the EES.	3. By way of derogation from Article 13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES. Carriers shall verify the stamps affixed in the travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and under Council Directive 2001/51/EC for the duration of the progressive start of operations of the EES. <u>By way of derogation from Article</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
			<u>13(3) of Regulation (EU) 2017/2226, carriers may start using the web service referred to in that Article from the 90th calendar day of the progressive start of operations of the EES.</u>	
Article 6(3), second subparagraph				
108	For a period of 180 calendar days after the end of the progressive start of operations of the EES, carriers shall, in addition to using the web service as referred to in Article 13(3) of Regulation (EU) 2017/2226 continue verifying the stamps affixed in travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and Council Directive 2001/51/EC.	For a period of 180 calendar days after the end of the progressive start of operations of the EES, carriers shall, in addition to using the web service as referred to in Article 13(3) of Regulation (EU) 2017/2226 continue verifying the stamps affixed in travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and Council Directive 2001/51/EC.	For a period of During 180 calendar days after the end of the progressive start of operations of the EES, carriers shall, in addition to using the web service as referred to in pursuant to Article 13(3) of Regulation (EU) 2017/2226 continue verifying the stamps affixed in travel documents with a view to fulfilling their obligations under Article 26(1) of the Convention implementing the Schengen Agreement and <u>under</u> Council Directive 2001/51/EC.	
Article 6(4)				
109	4. When fulfilling the obligations referred in Articles 35 and 52 of Regulation (EU) 2017/2226 in relation to the completion of personal data recorded in the EES, Member States shall complete the relevant data only to the extent possible taking into account the limited availability of the sets of data	4. When fulfilling the obligations referred in Articles 35 and 52 of Regulation (EU) 2017/2226 in relation to the completion of personal data recorded in the EES, Member States shall complete the relevant data only to the extent possible taking into account the limited availability of the sets of data	4. When fulfilling the obligations referred in Articles 35 and 52 of Regulation (EU) 2017/2226 in relation to the completion of personal data recorded in the EES, Member States shall complete the relevant data only to the extent possible taking into account the limited availability of the sets of data	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	collected during the progressive start of operations of the EES. Where applicable, the administrative decision referred to in Article 52(4) of Regulation (EU) 2017/2226 shall refer to the conditions set out in Article 4 of this Regulation that allow for the registration of incomplete files.	collected during the progressive start of operations of the EES. Where applicable, the administrative decision referred to in Article 52(4) of Regulation (EU) 2017/2226 shall refer to the conditions set out in Article 4 of this Regulation that allow for the registration of incomplete files.	collected during the progressive start of operations of the EES. Where applicable, the administrative decision referred to in Article 52(4) of Regulation (EU) 2017/2226 shall refer to the conditions set out in Article 4 of this Regulation that allow for the registration of incomplete files.	
Article 6(5)				
110	5. By way of derogation from Article 63(1), second subparagraph, of Regulation (EU) 2017/2226, the duly authorised staff of the European Border and Coast Guard Agency shall not access the data registered in the EES during the progressive start of operations of the EES for the purpose of carrying out risk analyses and vulnerability assessments.	5. By way of derogation from Article 63(1), second subparagraph, of Regulation (EU) 2017/2226, the duly authorised staff of the European Border and Coast Guard Agency shall not access the data registered in the EES during the progressive start of operations of the EES for the purpose of carrying out risk analyses and vulnerability assessments.	5. By way of derogation from Article 63(1), second subparagraph, of Regulation (EU) 2017/2226, the duly authorised staff of the European Border and Coast Guard Agency shall not access the data registered in the EES during the progressive start of operations of the EES for the purpose of carrying out risk analyses and vulnerability assessments.	
Article 7				
111	Article 7 Suspension of the EES	Article 7 Suspension of the EES	Article 7 Suspension of the EES	
Article 7(1), first subparagraph				
112	1. During the progressive start of operations of the EES, Member States may fully or partially suspend operating the EES at certain border crossing	1. During the progressive start of operations of the EES, Member States may fully or partially suspend operating the EES at certain border crossing	1. During the progressive start of operations of the EES, Member States may fully or partially suspend operating the EES at certain border crossing	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	points in exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or events leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive.	points in exceptional circumstances <u>case</u> of failure of the EES Central System, national systems or communication infrastructure, or events leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive.	points in exceptional circumstances of failure of the EES Central System, national systems or communication infrastructure, or events leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive.	
Article 7(1), second subparagraph				
113	In case of partial suspension, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be collected, with the exception of biometric data.	In case of partial suspension, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be collected, with the exception of biometric data.	In case of partial suspension, the data referred to in Articles 16 to 20 of Regulation (EU) 2017/2226 shall be collected, with the exception of biometric data.	
Article 7(1), third subparagraph				
114	In case of full suspension, Member States shall completely suspend the EES operations and shall not collect the data referred to in Articles 16 to 20 of that Regulation.	In case of full suspension, Member States shall completely suspend the EES operations and shall not collect the data referred to in Articles 16 to 20 of that Regulation.	In case of full suspension, Member States shall completely suspend the EES operations and shall not collect the data referred to in Articles 16 to 20 of that Regulation.	
Article 7(1), fourth subparagraph				
115	In both cases, Member States shall promptly and no later than 6 hours after the start of the suspension notify to the Commission and eu-LISA the reason for the partial or full suspension and ensure that the operators of infrastructure hosting border crossing points and carriers	In both cases, Member States shall promptly <u>inform the operators of infrastructure hosting border crossing points and carriers.</u> and No later than 6 hours after the start of the suspension, <u>Member States shall</u> notify to the Commission and eu-LISA the reason for the partial or full suspension and its	In both cases, Member States shall promptly and no later than <u>612</u> hours after the start of the suspension notify to the Commission and eu-LISA the reason for the partial or full suspension and its expected <u>or actual</u> duration and ensure that , <u>if relevant according to the local</u>	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	are duly informed of such suspension. Once the exceptional circumstances that led to the suspension cease, Member States shall promptly notify the Commission and eu-LISA.	expected duration and ensure that . <u>Once the circumstances that led to the suspension cease, Member States shall end the suspension and promptly notify the Commission, eu-LISA and</u> the operators of infrastructure hosting border crossing points and carriers are duly informed of such suspension thereof. Once the exceptional circumstances that led to the suspension cease, Member States shall promptly notify the Commission and eu-LISA.	<u>circumstances of the border crossing points, shall inform</u> the operators of infrastructure hosting border crossing points and carriers are duly informed of such suspension. Once the exceptional circumstances that led to the suspension cease, Member States shall promptly notify the Commission and eu-LISA.	
Article 7(1a)				
115a			<u>1a. In case of failure of EES Central System, eu-LISA shall promptly notify the Commission and Member States of the reason and its expected duration. Eu-LISA shall also promptly notify them when the failure is remedied. All Member States shall promptly confirm restart of operations to eu-LISA and the Commission.</u>	
Article 7(2)				
116	2. For a period of 60 calendar days after the end of the progressive start of operations of the EES, Member States may partially suspend operating the	2. For a period of 60 calendar days after the end of the progressive start of operations of the EES, Member States may partially suspend operating the	2. For <u>During</u> a period of 60 <u>90</u> calendar days after the end of the progressive start of operations of the EES, Member States may partially suspend operating the	

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
	EES as referred to in paragraph 1, second subparagraph, at a certain border crossing point for a limited time of maximum 6 hours and only in exceptional circumstances leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive. Member States shall be relieved of their obligation set out in Article 21(1) of Regulation (EU) 2017/2226 as regards biometric data. In those cases, Member States shall promptly and no later than 6 hours after the start of suspension notify the reason for the suspension and its expected duration to the Commission and eu-LISA.	EES as referred to in paragraph 1, second subparagraph, at a certain border crossing point for a limited time of maximum 64 hours within a day and only in exceptional circumstances leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive. Member States shall be relieved of their obligation set out in Article 21(1) of Regulation (EU) 2017/2226 as regards biometric data. In those cases, Member States shall promptly and no later than 6 hours after the start of suspension notify the reason for the suspension and its expected duration to the Commission and eu-LISA.	EES as referred to in paragraph 1, second subparagraph, at a certain border crossing point for a limited time of maximum 612 hours and only in exceptional circumstances leading to traffic of such intensity that the waiting time at a border crossing point becomes excessive. <u>During such a partial suspension,</u> Member States shall be relieved of their obligation set out in <u>that</u> Article 21(1) of Regulation (EU) 2017/2226 as regards <u>the registration of</u> biometric data. In those cases, Member States shall promptly and no later than 612 hours after the start of <u>the partial</u> suspension notify the reason for the suspension and its expected <u>or actual</u> duration to the Commission and eu-LISA.	
Article 7(3)				
117	3. If less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data, the period set out in paragraph 2 of this Article shall be automatically extended by 60 calendar days.	3. <i>if less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data, the period set out in paragraph 2 of this Article shall be automatically extended by 60 calendar days.</i>	3. If less than 80% of the individual files registered in the EES during the progressive start of operations of the EES contain biometric data, the period <u>of 90 calendar days</u> set out in paragraph 2 <i>of this Article</i> shall be automatically extended by 60 calendar days.	
Article 7(4)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
118	4. At the latest by the 10 th calendar day after the end of the progressive start of operations of the EES, eu-LISA shall provide the Commission with statistics allowing the Commission to verify if this percentage has been reached. No later than by the 30 th calendar day after the end of the progressive start of operations of the EES, the Commission shall inform the Member States of the outcome of its verification.	4. At the latest by the 10th calendar day after the end of the progressive start of operations of the EES, eu-LISA shall provide the Commission with statistics allowing the Commission to verify if this percentage has been reached. No later than by the 30th calendar day after the end of the progressive start of operations of the EES, the Commission shall inform the Member States of the outcome of its verification.	4. At the latest By the 10 th calendar day after the end of the progressive start of operations of the EES, eu-LISA shall provide the Commission with statistics allowing the Commission to verify if this percentage <u>referred to in paragraph 3</u> has been reached. No later than by the 30 th calendar day after the end of the progressive start of operations of the EES, the Commission shall inform the Member States of the outcome of its verification.	
Article 8				
119	Article 8 Entry into force and application	Article 8 Entry into force and application	Article 8 Entry into force and application	
Article 8(1), first subparagraph				
120	1. This Regulation shall enter into force on the fourth day following that of its publication in the Official Journal of the European Union.	1. This Regulation shall enter into force on the fourth day following that of its publication in the Official Journal of the European Union.	1. This Regulation shall enter into force on the fourth day <u>third day</u> of its publication in the Official Journal of the European Union.	
Article 8(1), second subparagraph				
121	It shall apply from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	It shall apply from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	It shall apply from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	
Article 8(1), third subparagraph				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
122	However, Article 3 of this Regulation shall apply from the entry into force of this Regulation.	However, Article 3 of this Regulation shall apply from the entry into force of this Regulation.	However, Article 3 of this Regulation shall apply from <u>LOJ Office: the date of</u> the entry into force of this Regulation l .	
Article 8(2), first subparagraph				
123	2. This Regulation shall cease to apply 180 calendar days from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226. However:	2. This Regulation shall cease to apply 180 calendar days from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226. However:	2. This Regulation shall cease to apply 180 calendar days from the date from which the EES is to start operations as decided by the Commission in accordance with Article 66(1) Regulation (EU) 2017/2226. However:	
Article 8(2), first subparagraph, point (a)				
124	(a) Article 5(13) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) Article 5(13) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(a) Article 5(13) shall cease to apply 5 years and 180 calendar days after the date <u>from which the EES is to start operations as</u> decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	
Article 8(2), first subparagraph, point (b)				
125	(b) Article 6(1), (2), (4) and (5) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(b) Article 6(1), (2), (4) and (5) shall cease to apply 5 years and 180 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(b) Article 6(1), (2), (4) and (5) shall cease to apply 5 years and 180 calendar days after the date <u>from which the EES is to start operations as</u> decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	
Article 8(2), first subparagraph, point (c)				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
126	(c) Article 6(3), second subparagraph, shall cease to apply 360 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(c) Article 6(3), second subparagraph, shall cease to apply 360 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(c) Article 6(3), second subparagraph, shall cease to apply 360 calendar days after the date <u>from which the EES is to start operations as</u> decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	
Article 8(2), first subparagraph, point (d)				
127	(d) Article 7(2) and (3) shall cease to apply 300 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(d) Article 7(2) and (3) shall cease to apply 300 240 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	(d) Article 7(2) and (3) shall cease to apply 300 330 calendar days after the date <u>from which the EES is to start operations as</u> decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226;	
Article 8(2), first subparagraph, point (e)				
128	(e) Article 7(4) shall cease to apply 210 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	(e) Article 7(4) shall cease to apply 210 calendar days after the date decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	(e) Article 7(4) shall cease to apply 210 calendar days after the date <u>from which the EES is to start operations as</u> decided by the Commission in accordance with Article 66(1) of Regulation (EU) 2017/2226.	
Article 8(2), second subparagraph				
129	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States.	This Regulation shall be binding in its entirety and directly applicable in all Member States <u>in accordance with the Treaties.</u>	
Formula				

	Commission Proposal	EP Mandate	Council Mandate	Draft Agreement
130	Done at Brussels,	Done at Brussels,	Done at Brussels,	
Formula				
131	For the European Parliament	For the European Parliament	For the European Parliament	
Formula				
132	The President	The President	The President	
Formula				
133	For the Council	For the Council	For the Council	
Formula				
134	The President	The President	The President	