

Screening Regulations 2020/0278(COD)

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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

introducing a screening of third-country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and Regulation (EU) 2019/817

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular points (b) and (d) of Article 77(2) thereof,

Having regard to the proposal from the European Commission,

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

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Schengen area was created to achieve ~~the Union's objective of establishing~~ an area without internal frontiers in which the free movement of persons is ensured, as set out in Article 3(2) of the Treaty on European Union (TEU). The good functioning of this area relies on mutual trust between the Member States and efficient management of the external border.
- (2) The rules governing border control of persons crossing the external borders of the Member States of the Union are laid down in Regulation (EU) 2016/399 of the European Parliament and of the Council (Schengen Borders Code)¹ as adopted under Article 77(2)(b) of the Treaty on the Functioning of the European Union (TFEU). To further develop the Union's policy with a view to carrying out checks on persons and efficiently monitoring the crossing of external borders referred to in the first paragraph of Article 77 TFEU, additional measures should address situations where third-country nationals **are apprehended in connection with an irregular crossing of ~~to avoid border checks at~~** the external borders, ~~or~~ where third-country nationals are disembarked following search and rescue operations **as well as and** where third-country nationals request international protection at a border crossing point without fulfilling entry conditions. The present regulation complements and **clarifies specifies** Regulation (EU) 2016/399 with regard to those three sets of situations.
- (3) It is essential to ensure that in those three sets of situations, the third country nationals are screened, in order to facilitate a proper identification and to ~~allow for enable them being referred efficiently to the~~ **an efficient referral to the relevant procedures correct procedure**, which, depending on the circumstances, ~~can might be~~ **procedures the procedure** for international protection ~~or as laid down in Regulation (EU) XXXX/202X of the European Parliament and of the Council [Asylum Procedures Regulation]~~ **or the** procedure respecting Directive 2008/115/EC of the European Parliament and of the Council (the "Return Directive")² **without prejudice to Member**

¹ Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L 77, 23.3.2016, p.1.

² Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals, OJ L 348, 24.12.2008, p. 98.

States' discretion in accordance with Article 6(5) of Regulation (EU) 2016/399. Persons identified as stateless or at risk of statelessness during the screening should be referred to the competent authorities to determine whether the individual is stateless and offer adequate protection, in accordance with national law. The screening should seamlessly complement the checks carried out at the external border ~~or compensate for the fact that those checks have been circumvented by the third-country nationals when crossing the external border~~. Where applicable, the checks carried out in the context of the screening may also form part of the checks to be performed in the context of subsequent procedures.

- (4) Border control is **not only** in the interest ~~not only~~ of the Member States at whose external borders it is carried out but of all Member States ~~which have abolished internal border control~~. Border control should help **reduce irregular migration, to combat illegal migration and protect victims of trafficking of human beings** and prevent any threat to the Member States' internal security, ~~public policy~~, public health and international relations. **At the same time, when carrying out border control, Member States should act in compliance with relevant Union and international law, including the Geneva Convention Relating to the Status of Refugees of 28 July 1951, as amended by the New York Protocol of 31 January 1967 ("the Geneva Convention"), obligations related to international protection, in particular the principle of non-refoulement, and fundamental rights.** As such, measures taken at the external borders are important elements of a comprehensive approach to **asylum and migration, allowing to address the challenge of mixed flows of migrants and persons seeking international protection**.
- (4a) **As part of a comprehensive approach to migration and border management, and in accordance with Article 80 TFEU, Union law should contain appropriate measures to give effect to the principle of solidarity and fair sharing of responsibility.**
- (5) In accordance with Article 2 of Regulation (EU) 2016/399, border control consists of border checks carried out at the border crossing points and border surveillance, which is carried out between the border crossing points, in order to prevent third-country nationals from circumventing border checks. In accordance with Article 13 of Regulation (EU) 2016/399 a person who has crossed a border in an **unauthorised irregular** manner and who has no right to stay on the territory of the Member State concerned shall be apprehended and made subject to procedures respecting Directive 2008/115/EC. ~~In accordance with~~ **However, Article 3 of Regulation (EU) 2016/399 clarifies that** border control should be carried out without prejudice to the rights of refugees and persons requesting international protection, in particular as regards non-refoulement.
- (6) Border guards are often ~~confronted~~ **faced** with third-country nationals who **have no travel or identification documents and who** are requesting international protection ~~without travel documents~~, both following apprehension during border surveillance and during checks at the border crossing points. Moreover, at some border sections the border guards ~~are confronted~~ **can may be faced** with large numbers of arrivals at the same time. In such circumstances, it is particularly ~~difficult~~ **important** to ensure that **all** relevant databases are consulted and to **immediately** determine the **appropriate asylum or return** procedure as quickly as possible.
- (7) In order to ensure an **improved and** swift handling of third-country nationals who ~~try~~ **have not been subject to avoid** border checks, or who request international protection

at a border crossing point without fulfilling the entry conditions, or who are disembarked following a search and rescue operation, it is necessary to provide a stronger framework for cooperation between the different national authorities responsible for border control, the protection of public health, **child protection**, the examination of the need for international protection and the application of return procedures.

- (8) In particular, the screening should help to ensure that the third-country nationals concerned are referred to the appropriate procedures at the earliest stage possible and that the procedures are continued without interruption and delay. At the same time, the screening ~~should~~ could help **discourage secondary movements in the Schengen area. to counter the practice whereby some applicants for international protection abscond after having been authorised to enter the territory of a Member State based on their request for international protection, in order to pursue such requests in another Member State or not at all.**
- (9) With regard to those persons who apply for international protection, and without prejudice to Regulation (EU) No XX/XXX [Asylum and Migration Management Regulation], the screening should ~~be followed by an examination of the need for international protection. It should allow to collect and enable the screening authorities to collect and~~ share with the ~~authorities~~ competent authorities for ~~that examination~~ examining an application for international protection any information that is relevant ~~for, without assessing the value of that information the latter to identify the appropriate procedure for the examination of the application, thus speeding up that examination.~~ The screening should also ~~ensure that contribute to identifying vulnerable persons and persons with special needs are identified~~ at an early stage, so that any **medical, special reception or and** procedural needs are fully taken into account in the determination of and the pursuit of the applicable procedure.
- ~~(10) The obligations stemming from this Regulation should be without prejudice to the provisions concerning responsibility for examining an application for international protection regulated in Regulation (EU) No XX/XXX [Asylum and Migration Management Regulation].~~
- (11) This Regulation should apply to third-country nationals and stateless persons who are apprehended in connection with ~~the unauthorised an irregular~~ crossings of the external border of a Member State by land, sea or air, except ~~those third-country nationals~~ for whom the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of the Eurodac Regulation for reasons other than their age, as well as to ~~persons those third-country nationals~~ who have been disembarked following search and rescue operations, ~~regardless of whether they apply or not for international protection and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399 and to those third country nationals. This Regulation should also apply to those who seek apply for international protection at the border crossing points or in transit zones without fulfilling the entry conditions set out in Article 6 of Regulation (EU) 2016/399.~~
- (12) The screening ~~should~~ may be conducted at **any appropriate and adequate location within the territory of a Member State. Member States should designate any location used for the Screening, which may be located at or in proximity to the external border taking into account geography and existing infrastructures, before the persons concerned are authorised to enter the territory. The Member States should apply measures pursuant to national law to prevent the persons concerned**

~~from entering the territory during the screening. In individual cases, where required, this may include detention, subject to the national law regulating that matter.~~

- (12a) In individual cases, where required, **the screening** may include detention, subject to the **relevant Union and national law** regulating that matter, **in particular Directive (EU) xxxx/xxxx [Reception Conditions Directive]. The provisions regarding detention set out in that directive should apply mutatis mutandis to all persons subject to the screening.**
- (13) Wherever it becomes clear during the screening of ~~that~~ a third-country national **that he or she subject to it** fulfils the conditions of Article 6 of Regulation (EU) 2016/399, the screening should end and, **if it is not already the case, the third-country national person** concerned should be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that Regulation.
- (14) In view of the purpose of the derogation referred to in Article 6(5) of Regulation (EU) 2016/399, persons whose entry has been authorised by a Member State under that provision in an individual decision should not be submitted to the screening despite the fact that they do not fulfil all entry conditions.
- (14 a) **Persons applying for international protection to whom Member States may not apply or may no longer apply the border procedure pursuant to Article [41] of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], paragraph [3a] should be authorised to enter the territory.**
- (15) All persons subject to the screening should be submitted to checks in order to **verify or establish their identity and to verify whether they might ascertain that they do not** pose a threat to internal security or public health. In the case of persons requesting international protection at border crossing points, the identity and security checks carried out in the context of border checks should be taken into account to avoid duplication.
- (16) On completion of the screening, the third-country nationals concerned should be **either** referred to the ~~relevant~~ procedure to establish responsibility for examining an application for and to assess the need for international protection, or be made subject to procedures respecting Directive 2008/115/EC **[Return Directive]-(return directive), as appropriate. The relevant** without prejudice to Article 6(5) of Regulation (EU) 2016/399. **The information obtained during the screening form containing the collected information** should be provided to the competent authorities to support the further assessment of each individual case, in full respect of fundamental rights. The procedures established by Directive 2008/115/EC should start applying only after the screening has ended. ~~Article 26 and 27 of the Asylum Procedures Regulation should apply only after the screening has ended. This should be without prejudice to the fact that the persons~~ **Persons expressing a wish to apply or are applying for international protection at the moment of apprehension, in the course of border control at the border crossing point or during the screening, should be considered applicants for international protection from the moment they express their wish to apply for international protection and Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation] and Directive (EU) xxxx/xxxx [Reception Conditions Directive] should apply to them.**
- (17) Under the mechanism for solidarity established by Regulation (EU) XXX/XXX [Asylum and Migration Management] **or under the mechanism addressing situations**

of crisis established by Regulation (EU) XXX/XXX [Regulation on situations of crisis] Member States are encouraged to relocate applicants for international protection swiftly and without undue delay after the screening.

- ~~(18) In accordance with Article 12 of Regulation (EU) 2016/399, the fulfilment of entry conditions and the authorisation of entry are expressed in an entry stamp in a travel document. The absence of such entry stamp or the absence of a travel document may therefore be considered as an indication that the holder does not fulfil the entry conditions. With the start of the operation of the Entry/Exit System leading to substitution of the stamps with an entry in the electronic system, that presumption will become more reliable. Member States should therefore apply the screening to third-country nationals who are already within the territory and who are unable to prove that they fulfilled the conditions of entry into the territory of the Member States. The screening of such third-country nationals is necessary in order to compensate for the fact that they presumably managed to evade entry checks upon arrival in the Schengen area and therefore could have not been either refused entry or referred to the appropriate procedure following screening. Applying the screening could also help in ascertaining, through the consultation of the databases referred to in this Regulation, that the persons concerned do not pose a threat to internal security. By the end of the screening within the territory, the third-country nationals concerned should be subject to a return procedure or, where they apply for international protection, to the appropriate asylum procedure. Submitting the same third-country national to repeated screenings should be avoided to the utmost extent possible.~~
- (19) The screening should be completed as soon as possible, and should not exceed ~~5~~ five days ~~where it is conducted at the external border and 3 days where it is conducted within the territory of a Member State. Any extension of the 5 days' time limit should be reserved for exceptional situations at the external borders, where the capacities of the Member State to handle screenings are exceeded for reasons beyond its control such as crisis situations referred to in Article 1 of Regulation XXX/XXX [crisis proposal].~~
- (19 a) In a situation of crisis in accordance with Regulation (EU) XXX/XXXX [Situations of crisis and force majeure in the field of migration and asylum] the screening should be carried out at the latest within ten days. Member States should still always carry out the screening without delay and as quickly as possible.
- ~~(20) The Member States should determine appropriate locations for the screening at or in proximity to the external border taking into account geography and existing infrastructures, ensuring that apprehended third-country nationals as well as those who present themselves at a border crossing point can be swiftly submitted to the screening. The tasks related to the screening may be carried out in hotspot areas as referred to in point (23) of Article 2 of Regulation (EU) 2019/1896 of the European Parliament and of the Council³.~~
- (21) In order to achieve the objectives of the screening, close cooperation should be ensured between the competent national authorities referred to in Article 16 of Regulation (EU) 2016/399, those referred to in Article 5 of ~~the Regulation (EU) xxxx/xxxx~~ [Asylum Procedures Regulation] as well as those responsible for carrying out return procedures

³ Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard, OJ L 295, 14.11.2019, p. 1.

respecting Directive 2008/115/EC. ~~Child protection authorities should also be closely involved in the screening wherever necessary to ensure that the best interests of the child are duly taken into account throughout the screening. Member States should be allowed~~ In that regard, it is important to avoid the duplication of obligations on Member States and applicants for international protection regarding the procedures in place, and the duplication of rules concerning reception conditions and grounds on which persons might be detained. **Member States should be allowed and are encouraged** to avail themselves of the support of the relevant agencies, in particular the European Border and Coast Guard Agency and the {European Union Agency for Asylum}, within the limits of their mandates. Member States should involve the national Rapporteurs for Anti-trafficking wherever the screening reveals facts relevant for trafficking in line with Directive 2011/36/EU of the European Parliament and of the Council⁴.

- (21a) **During the screening procedure, the child’s best interests should always be a primary consideration in accordance with Article 24(2) of the Charter of Fundamental Rights of the European Union. Child protection authorities should, wherever necessary, be closely involved in the screening to ensure that the best interests of the child are duly taken into account throughout the screening. A representative should be appointed to represent and assist the unaccompanied minor during the screening. Where applicable, this representative should be the same as the representative to be appointed in accordance with Article 23 of Directive (EU) XXX/XXX [Reception Conditions Directive].**
- (22) When ~~conducting the screening applying this Regulation~~, the ~~competent authorities~~ **Member States** should comply with the Charter of Fundamental Rights of the European Union **relevant international law, including the Convention Relating to the Status of Refugees done at Geneva on 28 July 1951 (‘the Geneva Convention’)**, and ensure the respect for human dignity and should not discriminate against persons on grounds of sex, racial, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinions, membership of a national minority, disability, age or sexual orientation. Particular attention should be paid to the best interests of the child.
- (23) In order to ensure compliance with EU and international law, including the Charter of Fundamental Rights during **border surveillance and the screening procedure**, each Member State should establish **or designate** a monitoring mechanism and put in place adequate safeguards for the independence ~~thereof of that mechanism in accordance with the Paris Principles, the Venice Principles, the UN General Assembly Resolution of 2020 on the role of Ombudsman, and the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment~~, in particular by involving national human rights institutions, national ombudspersons or international organisations in the management and operation of the mechanism. Member States may also involve relevant non-governmental organisations. The bodies responsible for the mechanism should establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor. The ~~monitoring~~ **mechanism should cover monitor in particular** the respect for fundamental rights in relation to **border surveillance and the screening procedure** as well as the respect for the applicable

⁴ Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, OJ L 101, 15.4.2011, p. 1.

national rules regarding detention and compliance with the principle of non-refoulement as referred to in Article 3(b) of Regulation (EU) 2016/399.

- (23a) The Fundamental Rights Agency (FRA) should establish general guidance as to the establishment and the independent functioning of such monitoring mechanisms. Member States should furthermore be allowed to request the support of the ~~Fundamental Rights Agency~~ FRA for developing their national monitoring mechanism. Member States should also be allowed to seek advice from the ~~Fundamental Rights Agency~~ FRA with regard to establishing the methodology for this monitoring mechanism and with regard to appropriate training measures. ~~Member States should also be allowed to invite relevant and competent national, international and non-governmental organisations and bodies to participate in the monitoring.~~
- (23b) The independent monitoring mechanism should be **in addition and** without prejudice to the monitoring of fundamental rights provided by the European Border and Coast Guard Agency's fundamental rights monitors provided for in Regulation (EU) 2019/1896, **the monitoring mechanism for the purpose of monitoring the operational and technical application of the Common European Asylum System (CEAS) as set out in Article 14 of Regulation (EU) xxxx/xxxx [EU Asylum Agency Regulation], the Schengen Evaluation and Monitoring Mechanism provided for in Council Regulation (EU) 2022/922 and monitoring carried out by existing national or international monitoring bodies.** The Member States should investigate all allegations of **non-respect the breach** of the fundamental rights during **border surveillance and the screening procedure**, including by ensuring that complaints are dealt with **promptly**, expeditiously and **are capable of leading to the identification and sanction of those responsible** in an appropriate ~~way~~ manner.
- (23c) Member States should ensure that **the implementation of the Screening procedure, and the set up and operation of the independent monitoring mechanism, are adequately financed and resourced. To that end, they may request funding for the establishment and operation of the independent monitoring mechanism from EU funding sources, in particular the Integrated Border Management Fund (IBMF) provided for in Regulation (EU) 2021/1148.**
- (23d) The obligations on Member States to establish or designate an existing independent monitoring mechanism during border surveillance and the screening procedure set out in this Regulation as well as during the asylum and return border procedure set out in Article [XX] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation] should be fulfilled through the establishment or designation of one mechanism that covers all relevant phases and procedures specified in the respective regulations.
- (24) By the end of the screening, the authorities responsible for the screening should fill in a ~~de-briefing~~ screening form. The form should be transmitted to the authorities examining applications for international protection or to the authorities competent for return – depending to ~~on~~ whom the **individual person** is referred to. ~~In the former case, the authorities responsible for the screening should also indicate any elements which may seem to be relevant for determining whether the competent authorities should submit the application of the third-country national concerned to an accelerated examination procedure or to the border procedure.~~

- (24a) The information in the screening form should be recorded in such a way that it is amenable to administrative and judicial review during any subsequent asylum or return procedure. The person subject to the screening should have the possibility to indicate to the competent authorities that the information contained in the form is incorrect. Any such indication should be recorded in the screening form without delaying the completion of the screening.
- (24aa) The person concerned should be provided with a copy of the screening form before it is transmitted to the relevant authorities. In the case of minors, the copy of the form should be provided to the adult(s) responsible for the child. In the case of unaccompanied minors, the form should be provided to the child's representative.
- (24b) The processing of data during the screening procedure should always be carried out in accordance with Regulation (EU) 2016/679, Regulation 2018/1725 or, where relevant, Directive 2018/680, including the general principles of data minimisation and purpose limitation. Particular attention should be given to Article 13 of Regulation (EU) 2016/679 [GDPR], Article 13 of Directive (EU) 2016/680 [Police Directive] and Article 15 of Regulation (EU) 2018/1725, including the right to request from the data controller access to and rectification or erasure of personal data and the right to lodge a complaint with a supervisory authority. When implementing this regulation, all relevant opinions and recommendations of the European Data Protection Board and European Data Protection Supervisor should be taken into account.
- ~~(25) The biometric data taken during the screening should, together with the data referred to in Articles [12, 13, 14 and 14a] of the Eurodac Regulation be transmitted to Eurodac by the competent authorities in accordance with the deadlines provided for in that Regulation.~~
- (26) A preliminary health examination should be carried out on all persons submitted to the screening ~~at the external borders~~ with a view to identifying persons in need of immediate care or requiring other measures to be taken, for instance isolation on public health grounds. The specific needs of minors and vulnerable persons should be taken into account. ~~If it is clear from the circumstances that such examination is not needed, in particular because the overall condition of the person appears to be very good, the examination should not take place and the person concerned should be informed of that fact.~~ The preliminary health examination should be carried out by ~~the~~ qualified medical professionals of the health authorities of the Member State concerned. ~~With regard to third-country nationals apprehended within the territory, the preliminary medical examination should be carried out where it is deemed necessary at first sight.~~
- (26a) A preliminary vulnerability check should be carried out on all persons submitted to the screening with a view to identifying persons who are in a vulnerable situation, are victims of torture or other inhuman or degrading treatment, are stateless or at risk of statelessness, or have special reception or procedural needs within the meaning of Article 21 of Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article [20] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation]. The vulnerability check should be carried out by qualified professionals of the Member State concerned.
- (27) During the screening, all persons concerned should be guaranteed a standard of living complying with the Charter of Fundamental Rights of the European Union and have

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

- (28) Since third-country nationals subject to the screening may not ~~carry~~ **have** the necessary identity and travel documents required for the legal crossing of the external border, **a verification of identity or** an identification procedure should be ~~provided for~~ **carried out** as part of the screening.
- (29) The Common Identity Repository (“CIR”) was established by Regulation (EU) 2019/817 of the European Parliament and of the Council (Interoperability Regulation)⁵ to facilitate and assist in the correct identification of persons registered in the Entry/Exit System (“EES”), the Visa Information System (“VIS”), the European Travel Information and Authorisation System (“ETIAS”), Eurodac and in the European Criminal Records Information System for third country nationals (“ECRIS-TCN”), including of unknown persons who are unable to identify themselves. For that purpose, the CIR contains only the identity, travel document and biometric data recorded in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, logically separated. Only the personal data strictly necessary to perform an accurate identity check is stored in the CIR. The personal data recorded in the CIR ~~is kept for no longer than strictly necessary for the purposes of the underlying systems and should be~~ automatically **be** deleted where the data are deleted from the underlying systems. Consultation of the CIR enables a reliable and exhaustive **verification of identity or** identification of persons, by making it possible to consult all identity data present in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in one go, in a fast and reliable manner, while ensuring ~~a maximum~~ **the** protection of the data and avoiding unnecessary processing or duplication of data.
- (30) In order to **verify or** establish the identity of the persons subject to the screening, a verification should be initiated in the CIR in the presence of the person during the screening. During that verification, the biometric data of the person should be checked against the data contained in the CIR. Where the biometric data of a person cannot be used or if a **query consultation** with that data fails, the **consultation query** could be carried out with identity data of the person in combination with travel document data, where such data are available. In accordance with the principles of necessity and proportionality, and where the **consultation query** indicates that data on that person are stored in the CIR, Member State authorities should have access to the CIR to consult

⁵ Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA, OJ L 135, 22.5.2019, p. 27.

the identity data, travel document data and biometric data of that person, without the CIR providing any indication as to which EU information system the data belong to.

- (31) Since the use of the CIR for identification purposes has been limited by Regulation (EU) 2019/817 to facilitating and assisting in the correct identification of persons registered in the EES, VIS, ETIAS, Eurodac and ECRIS-TCN in situations of police checks within the territory of the Member States, that Regulation needs to be amended to provide for the additional purpose of using the CIR to identify persons during the screening established by this Regulation.
- (32) Given that many persons submitted to the screening may not ~~carry~~ **have** any travel documents, the authorities conducting the screening should have access to any other relevant documents held by the persons concerned **for the verification of identity or identification** in cases where the biometric data of such persons are not usable or yield no result in the CIR. The authorities should also be allowed to use data from those documents, other than biometric data, to carry out checks against the relevant databases.
- (33) The identification of persons during border checks at the border crossing point and any consultation of the databases in the context of border surveillance or police checks in the external border area by the authorities who referred the person concerned to the screening should be considered as part of the screening and should not be repeated, unless there are special circumstances justifying such repetition. **It is neither necessary nor proportionate to consult the same database multiple times in respect of the same person. The collection of personal data, and in particular the taking of biometric data for the purpose of both verification or identification and of the registration in accordance with the requirements of Regulation (EU) xxxx/xxxx [Eurodac Regulation], should take place once as part of the screening.**
- ~~(34) In order to ensure uniform conditions for the implementation of Articles 11(5) and 12(5) of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council⁶. For the adoption of relevant implementing acts, the examination procedure should be used.~~
- ~~(35) The screening should also assess whether the entry of the third-country nationals into the Union could pose a threat to internal security or to public policy.~~
- (36) As the screening concerns **persons third-country nationals** present at the external border ~~without fulfilling~~ **who may not fulfil** entry conditions, or **who have been** disembarked after a search and rescue operation, the security checks as part of the screening should be **at least** of a similar level **as to** the checks performed in respect of third country nationals ~~who that~~ **apply-on** beforehand for an authorisation to enter the Union for a short stay, whether they are under a visa obligation or not.
- (37) For third-country nationals who are on the basis of their nationality exempt from the visa requirement under Regulation (EU) 2018/1806 of the European Parliament and the

⁶ ~~Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing power (OJ L 55, 28.2.2011, p. 13).~~

Council⁷, Regulation (EU) 2018/1240 of the European Parliament and of the Council⁸ (ETIAS Regulation) provides that they have to apply for a travel authorisation to come to the EU for short stay. Before receiving that travel authorisation, the persons concerned are submitted to security checks of the personal data they submit against a number of EU databases – the Visa Information System (VIS), the Schengen Information System (SIS), the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), the Europol data processed for the purpose referred to in Article 18(2)(a) of Regulation (EU) 2016/794⁹, ECRIS-TCN¹⁰ – as well as Interpol’s Stolen and Lost Travel Document database (SLTD) and Travel Documents Associated with Notices database (Interpol TDAWN).

- (38) As to third-country nationals who are subject to the visa requirement under Regulation (EU) 2018/1806, they are submitted to security checks against the same databases as visa-free third country nationals, pursuant to Regulation (EU) 810/2009 and Regulation (EU) 767/2008 before a visa is issued.
- (39) ~~It follows from the reasoning developed in recital (36) that as~~ As regards persons subject to the screening, automated ~~verifications consultation~~ **consultation** for security purposes ~~should be carried out~~ against the ~~same systems as is provided for applicants for a visa or for a travel authorisation under the European Travel Information and Authorisation System: the VIS, EES, ETIAS, SIS, ECRIS-TCN, Europol and Interpol’s SLTD and TDAWN. Persons submitted to the screening relevant databases should also be carried out. checked against ECRIS-TCN as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences, Europol data referred to in the preceding recital 38, the Interpol’s Lost and Stolen Travel Documents database and Travel Documents Associated with Notices databases (TDAWN).~~
- (40) Those ~~checks consultations~~ **checks** should be conducted in a manner that ensures that only data necessary for carrying out the security checks is retrieved from those databases. With regard to persons who have requested international protection at a border crossing point, the consultation of databases for the security check as part of the screening should ~~focus on take place only insofar as any of the relevant databases that~~ **focus on take place only insofar as any of the relevant** databases ~~that~~ were not consulted during the border checks at the external border, ~~thus avoiding repeated consultations.~~
- (41) Where justified ~~for the purpose of~~ the security check, ~~the screening~~ **the screening** could also include verification of objects in the possession of third-country nationals, in accordance with national law. Any measures applied in ~~this the~~ **this the** context of a security check should be proportionate and should respect the **principles of human dignity and of physical and**

⁷ Regulation (EU) 2018/1806 of the European Parliament and of the Council of 14 November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 303, 28.11.2018, p. 39).

⁸ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

⁹ Regulation (EU) 2016/794 of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53–114)

¹⁰ Regulation (EC) 2019/816 of the European Parliament and of the Council of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1–26)

- psychological integrity of the persons subject to the screening. The authorities involved should ensure that the fundamental rights of the individuals concerned are respected, including the right to protection of personal data and freedom of expression.
- (42) Since ~~access to~~ EES, ETIAS, VIS and ECRIS-TCN ~~is necessary for the authorities designated to carry out the screening~~ may include relevant information in order to establish whether ~~the a~~ person could pose a threat to ~~the~~ internal security ~~or to public policy~~, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226, Regulation (EU) 2018/1240 and Regulation (EC) No 2019/816, respectively, should be amended to provide for ~~this additional limited~~ access rights for the screening authorities for this specific purpose ~~which is currently not provided by those Regulations~~. In the case of Regulation (EU) No 2019/816, this amendment should for reasons of variable geometry take place through a different regulation than the present one.
- (43) The European search portal (ESP) established by Regulation (EU) 2019/817 should be used to carry out the searches against the European databases, EES, ETIAS, VIS and ECRIS-TCN, for identification or for the purpose of security checks, as applicable.
- (44) ~~Since the effective implementation of the screening is dependent upon correct identification of the individuals concerned and of their security background,~~ The consultation of European databases for the purpose of verification of identity or identification and security checks during the screening can be justified to the extent necessary for achieving that purpose ~~is justified by~~ and in accordance with the ~~same~~ objectives for which each of those databases has been established. ~~, that is to say,~~ Information on whether the consultation of relevant databases for security purposes in accordance with Article 11 resulted in a hit or no hit will be included on the screening form.
- (44a) In order to supplement certain non-essential aspects of this Regulation as regards the procedure for cooperation and the ~~effective management~~ sharing of personal data between the ~~Union's external borders~~, authorities responsible for carrying out the screening and other competent authorities for determining the threat to internal security ~~of the Union and the effective implementation of the Union's asylum and return policies~~, the power to adopt acts in accordance with Article 290 TFEU should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.
- (45) Since the objectives of this Regulation, namely the strengthening of the border checks at the external borders, the verification of identity or identification of all third-country nationals subject to it and the verification against the relevant databases whether the persons might pose a threat to internal security ~~control of persons who are about to enter the Schengen area and their referral to the appropriate procedures~~, cannot be achieved by Member States acting alone, it is necessary to establish common rules at Union level. Thus, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that

Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.

- (46) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, as annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen acquis, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (47) This Regulation constitutes a development of the provisions of the Schengen acquis, in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹¹; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (48) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen acquis, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC¹².
- (49) 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/EC¹³.
- (50) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen acquis within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹⁴.

¹¹ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen acquis (OJ L 64, 7.3.2002, p. 20).

¹² Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen acquis (OJ L 176, 10.7.1999, p. 31).

¹³ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen acquis (OJ L 53, 27.2.2008, p. 1).

¹⁴ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss

- (51) As regards Cyprus, Bulgaria, Romania and Croatia, this Regulation constitutes an act building upon, or otherwise related to, the Schengen acquis within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession,

Article 1

Subject matter

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

The purpose of the screening shall be ~~the strengthening of the control of persons who are about to enter the Schengen area and their referral to the appropriate procedures. The object of the screening shall be the identification of~~ to strengthen border checks at the external borders, to identify all third-country nationals subject to it and ~~the verification to verify against the relevant databases that whether~~ the persons subject to it ~~do not~~ might pose a threat to internal security.

The screening shall also ~~entail include a mandatory preliminary health checks, where appropriate, to identify persons and a mandatory preliminary vulnerability check, which seeks to identify vulnerable and in the persons, those with special reception or procedural needs, and those in need of health care. The screening shall also seek to identify as well the ones posing persons possibly posing a threat to public health. Those checks shall contribute to referring such persons to the appropriate procedure.~~

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

This Regulation also provides for an independent mechanism to be established in each Member State to monitor compliance with Union and international law, including the Charter of Fundamental Rights during border surveillance and the screening procedure.

Article 1a

Fundamental Rights

When applying this Regulation, Member States shall act in full compliance with relevant Union law, including the Charter of Fundamental Rights of the European Union ('the Charter'), relevant international law, including the Convention Relating to the Status of Refugees done at

Confederation's association with the implementation, application and development of the Schengen acquis, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

Geneva on 28 July 1951 ('the Geneva Convention'), obligations related to access to international protection, in particular the principle of non-refoulement, and fundamental rights.

Article 2

Definitions

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

1. ~~'unauthorised crossing of the external border' means crossing of an external border of a Member State by land, sea or air, at places other than border crossing points or at times other than the fixed opening hours, as referred to in Article 5(3) of Regulation (EU) 2016/399;~~
2. 'threat to public health' means a threat to public health within the meaning of Article 2, point 21, of Regulation (EU) 2016/399;
3. 'verification' means the process of comparing sets of data to establish the validity of a claimed identity (one-to-one check);
4. 'identification' means the process of determining a person's identity including through a database search against multiple sets of data (one-to-many check);
5. 'third-country national' means any person who is not a citizen of the Union within the meaning of Article 20(1) TFEU and who is not a person enjoying the right to free movement under Union law within the meaning of Article, 2 Point 5, of Regulation (EU) 2016/399;
- 5a. 'biometric data' means fingerprint data and facial image data within the meaning of Article 3, point (p), of Regulation (EU) xxxx/202x [Eurodac Regulation];
- 5b. 'stateless person' means a stateless person as laid down in Article 1 of the Convention relating to the Status of Stateless Persons, signed in New York on 28 September 1954, in its original version;
- 5c. 'representative' means a person or an organisation, including a public authority designated by the competent authorities or bodies, with the necessary skills and expertise, including regarding the treatment and specific needs of minors, to represent, assist and act on behalf of an unaccompanied minor, as applicable, in order to safeguard his or her best interests and general well-being and so that the unaccompanied minor can benefit from the rights and comply with the obligations under this Regulation;
- 5d. 'minor' means a third-country national or stateless person below the age of 18 years;
- 5e. 'unaccompanied minor' means a minor who arrives on the territory of the Member State unaccompanied by an adult responsible for him or her, whether by law or by the practice of the Member State concerned, and for as long as he or she is not effectively taken into the care of such an adult; it includes a minor who is left unaccompanied after he or she has entered the territory of a Member State.
- 5f. 'detention' means confinement of a person by a Member State within a particular place, where the person is deprived of his or her freedom of movement.

~~5f. — ‘refusal of entry’ means a refusal of entry in accordance with Article 14 of Regulation (EU) 2016/399.~~

Article 3

Scope

~~Screening at the external border~~

1. The screening provided for in this Regulation shall apply to all third-country nationals, **regardless of whether they have made an application for international protection**, who:
 - (a) are apprehended in connection with an ~~unauthorised irregular~~ crossing of the external border of a Member State by land, sea or air, except third country nationals for whom, **for reasons other than their age**, the Member State is not required to take the biometric data pursuant to Article 14(1) and (3) of Regulation (EU) 603/2013 ~~for reasons other than their age~~, or
 - (b) are disembarked in the territory of a Member State following a search and rescue operation **and do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399.**

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

2. The screening shall also apply to all third-country nationals who apply for international protection at external border crossing points or in transit zones and who do not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399.
3. The screening is without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399, ~~except the situation where the beneficiary of an individual decision issued by the Member State based on Article 6(5)(c) of that Regulation is seeking international protection.~~

Article 4

~~Authorisation to enter~~ *Entry into the territory of a Member State*

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

- ~~2. — Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall be discontinued and the third-country national concerned shall be authorised to enter the territory, without prejudice to the application of penalties as referred to in Article 5(3) of that Regulation.~~
- 2 a. Without prejudice to Article 3(3) and Article 14(7), in accordance with Article [41] of Regulation (EU) xxxx/202x [Asylum Procedure Regulation], where a Member State implements a border procedure for the examination of applications for international protection, the persons referred to in Article 3,

paragraphs 1 and 2, shall not be authorised to enter the territory of that Member State during the screening.

Article 5

Screening within the territory

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

Article 6

Requirements concerning the screening

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

The screening shall comprise the following mandatory elements:

- (a) a preliminary health check ~~and~~ as referred to in Article 9;
- (aa) a preliminary vulnerability check as referred to in Article 9;
- (b) identification or verification of identity as referred to in Article 10;
- (c) registration of biometric data in ~~the appropriate databases as referred to in Article 14(6), to the extent it has not occurred yet~~ accordance with Articles [10, 13 and 14a] of Regulation (EU) xxxx/xxxx [Eurodac Regulation];
- (d) a security check as referred to in Article 11;
- (e) the filling out of a ~~de-briefing screening~~ form as referred to in Article 13;
- (f) referral to the appropriate procedure ~~or a refusal of entry~~ as referred to in Article 14.

2. ~~In the cases referred to in Article 5,~~The screening ~~shall~~ may be conducted at any appropriate and adequate location within the territory of a Member State to be designated by that Member State, including at or in proximity to the external borders.

2. ~~3.~~— ~~In the cases referred to~~ Organisations and persons providing advice and counselling, including legal assistance and representation, shall have effective access to third-country nationals, in particular to those held in ~~Article 3, the~~ detention facilities or present at the border crossing points, including transit zones, at external borders.

3. The screening shall be carried out without delay and shall in any case be completed within ~~5~~ five days from the apprehension in the external border area, the disembarkation in the territory of the Member State concerned or the presentation at

the border crossing point. ~~In exceptional circumstances, where a disproportionate number of third-country nationals needs to be subject to the screening at the same time, making it impossible in practice to conclude the screening within that time limit, the period of 5 days may be extended by a maximum of an additional 5 days.~~

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

6 ba. For the duration of a situation of crisis in accordance with Regulation (EU) XXX/XXXX [Situations of crisis and force majeure in the field of migration and asylum], the period of five days set out in paragraph 6(b) may be extended by a maximum of five additional days.

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

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

5a. Member States shall ensure that all persons subject to the screening are accorded a standard of living which guarantees their subsistence, protects their physical and mental health, and respects their rights under the Charter of Fundamental Rights of the European Union.

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

5c. When it proves necessary, and on the basis of an individual assessment of each case, Member States may detain a person subject to the screening, if other less coercive alternative measures cannot be applied effectively. Member States may, where necessary, require persons subject to the screening to report to the competent authorities at a specified time or at reasonable intervals.

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

5e. Third-country nationals shall not be subject to any intrusive biometric surveillance technologies nor predictive analytics and biometric categorisation in or around the reception or screening facilities or during the screening. The use of lie detection systems or long-range listening devices shall be prohibited.

7. Member States shall designate competent authorities responsible for ~~to carry out~~ the screening and shall ensure that the staff of those competent authorities who will carry out the screening have the appropriate knowledge and have received the necessary training in accordance with Article 8 of Regulation (EU) No 2021/2303 [EU Asylum Agency Regulation]. They shall deploy appropriate staff and sufficient resources to carry out the screening in an efficient way.

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

The competent authorities may be assisted or supported in the performance of the screening by experts or liaison officers and teams deployed by the European Border and Coast Guard Agency, **including as referred to in Article 40(4) of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation]**, and the [European Union Agency for Asylum] within the limits of their mandates **provided that such experts have the relevant training and qualifications as set out in the first two subparagraphs**.

Article 7

Monitoring of fundamental rights

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

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

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

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

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

It shall ensure that allegations of non-respect for fundamental rights in all relevant activities in relation to border surveillance and the screening procedure for all third-country nationals referred to in Article 3(1) and 3(2) are properly investigated and dealt with effectively and without undue delay, or where necessary trigger such investigations. It shall monitor the progress of these investigations.

- ~~where applicable, to ensure compliance with national rules on detention of the person concerned, in particular concerning the grounds and the duration of the detention;~~
3. Member States shall put in place adequate safeguards to guarantee the independence of the mechanism, in line with criteria recognised under relevant international human rights law and standards.

Member States shall involve national human rights institutions, national ombudspersons and international organisations in the management and operation of the mechanism. They may also involve relevant non-governmental organisations. Insofar as one or more of those institutions or organisations are not directly involved in the mechanism, the bodies responsible for the monitoring mechanism shall establish and maintain close links with them. The bodies responsible for the mechanism shall establish and maintain close links with the national data protection authorities and the European Data Protection Supervisor.
 4. **Member States shall provide bodies responsible for the mechanism with access to all relevant locations, including reception and detention facilities, individuals and documents, insofar as such access is necessary to allow the bodies responsible for the mechanism to fulfil the obligations set out in this Article. Where information gathered on an individual case suggests that a criminal offence has been committed, that information shall be handed over to the national prosecuting authorities/prosecution service.**
 6. The ~~Fundamental Rights Agency~~**FRA** shall issue general guidance for Member States on the **establishment of a monitoring** ~~setting up of such~~ mechanism and its independent functioning. Furthermore, Member States may request the ~~Fundamental Rights Agency~~**FRA** to support them in developing their national monitoring mechanism, including the safeguards for independence of such mechanisms, as well as the monitoring methodology and appropriate training schemes.

~~Member States may invite relevant national, international and non-governmental organisations and bodies to participate in the monitoring.~~
 7. **The mechanism referred to above shall be without prejudice to the monitoring mechanism for the purpose of monitoring the operational and technical application of the CEAS as set out in Article 14 of Regulation (EU) 2021/2303 [EU Asylum Agency Regulation] and to the role of the fundamental rights monitors in monitoring respect for fundamental rights in all activities of the European Border and Coast Guard Agency as set out in Article 80 of Regulation (EU) 2019/1896 [European Border and Coast Guard Regulation].**

Article 8

Provision of information

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

- (a) the steps ~~and modalities~~ of the screening as well as possible outcomes of the screening;
 - (aa) **the right to apply for international protection, in particular in the circumstances specified in Article 30 of Regulation (EU) xxxx/202x [Asylum Procedure Regulation];**
 - (b) the rights and obligations of third country nationals during the screening, including the obligation on them to remain in the designated facilities during the screening **and the possibility to contact and be contacted by the organisations and persons referred to in Article 6(6a).**
 - (c) the **information rights** referred to in Article 13 of the Regulation (EU) 2016/679¹⁵ [GDPR], **in Article 13 of the Directive (EU) 2016/680^{35a} [Police Directive] and in Article 15 of the Regulation (EU) 2018/1725^{35b}.**
2. ~~During the screening, they~~ Member States shall also, as appropriate, **receive provide** information on:
- (a) **to the extent this information has not been given already**, the applicable rules on the conditions of entry for third-country nationals in accordance with Regulation (No) 2016/399 [Schengen Border Code], as well as on other conditions of entry, stay and residence of the Member State concerned, ~~to the extent this information has not been given already;~~
 - (b) where they have applied, or there are indications that they wish to apply, for international protection, information on the obligations **laid down for those seeking international protection to apply for international protection in the Member State of first entry or legal stay set out in Article [9(1) and (2)] of in** Regulation (EU) No XXX/XXX [ex-Dublin Regulation], the consequences of non-compliance ~~set out in Article [10(1)] of that Regulation, and the information set out in Article 11 of that Regulation~~ as well as on the procedures that follow the making of an application for international protection;
 - (c) **where it becomes apparent during the screening that the third-country national concerned does not fulfil the entry conditions set out in Article 6 of Regulation (EU) 2016/399**, the obligation ~~for illegally staying third-country nationals~~ to return in accordance with Directive XXXXX [Return Directive] **and** the possibilities to enrol in a programme providing logistical, financial and other material or in-kind assistance for the purpose of supporting voluntary departure;

¹⁵ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016

^{35a} Directive (EU) 2016/680 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA (Police Directive), OJ L 119, 4.5.2016

^{35b} Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018

- (d) the conditions of participation in relocation in accordance with Article XX of Regulation (EU) No XXX/XXX [ex-Dublin Regulation];
- (f) ~~the information referred to in Article 13 of the Regulation (EU) 2016/679¹⁶ [GDPR].~~
3. The information provided during the screening shall be given in a language which the third-country national understands ~~or is reasonably supposed to understand~~. The information shall be given in writing ~~and, in exceptional circumstances, in a concise and easily accessible format, using clear and plain language and~~, where necessary, orally using interpretation services. It shall be provided in an appropriate manner taking into account the age and the gender of the person ~~and in cases of unaccompanied minors in the presence of the representative as referred to in Article 9a.~~
- For those third-country nationals seeking international protection, this information may be provided at the same time as the information as laid down in Article 8(2) of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].
- The responsible authorities shall make the necessary arrangements for interpretation services and, where necessary and appropriate, for cultural mediation services to be available to facilitate access to the procedure for international protection.
4. Member States may authorise relevant and competent national, international and non-governmental organisations and bodies to provide third country nationals with information under this article during the screening according to the provisions established by national law.

Article 9

Health ~~checks~~ and vulnerability~~ies~~-checks

1. ~~All t~~Third-country nationals submitted to the screening referred to in Article 3 shall be subject to a preliminary medical examination by **qualified medical professionals** with a view to identifying any needs for immediate **or long-term** care or isolation on public health grounds, ~~unless, based on the circumstances concerning the general state of the individual third-country nationals concerned and the grounds for directing them to the screening, the relevant competent authorities are satisfied that no preliminary medical screening is necessary. In that case, they shall inform those persons accordingly.~~
- 1a. **Without prejudice to the obligations on Member States laid down in Article [23] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation], for those third-country nationals seeking international protection, the health check referred to in the first subparagraph may form part of the medical examination laid down in that Article.**
2. ~~Where relevant, it~~In addition, Member States shall ensure that ~~be checked~~**qualified professionals assess** whether persons ~~submitted to the screening referred to in Article 3 referred to in paragraph 1~~are in a vulnerable situation, are victims of torture **or other inhuman or degrading treatment, are stateless persons**

or at risk of becoming stateless persons, or have special reception or procedural needs within the meaning of Article [2021] of the [recast] Directive (EU) xxxx/xxxx [Reception Conditions Directive] and Article [20] of Regulation (EU) xxxx/xxxx [Asylum Procedure Regulation].

3. Where there are indications of vulnerabilities or special reception or procedural needs, the third-country national concerned shall receive timely and adequate support in view of their physical and mental health **in adequate facilities in the Member State. Where a person claims not to have any nationality or when there are reasonable grounds to believe that he or she may be a stateless person, this shall be clearly registered.** In the case of minors, support shall be given **in a child-friendly manner** by personnel **properly** trained and qualified to deal with minors, and in cooperation with child protection authorities.
- ~~4. **Where it is deemed necessary based on the circumstances, third-country nationals submitted to the screening referred to in Article 5 shall be subject to a preliminary medical examination, notably to identify any medical condition requiring immediate care, special assistance or isolation.**~~
4. **Without prejudice to the assessment of special reception needs required under the Reception Conditions Directive, the assessment of special procedural needs required under the [Asylum Procedures Regulation], and the vulnerability check required under the Return Directive, the vulnerability assessment referred to in the second and third paragraphs may form part of the vulnerability and special procedural assessments laid down in those legislative acts.**

Article 9a

Guarantees for Minors

1. **During the screening procedure, the child's best interests shall always be a primary consideration in accordance with Article 24(2) of the Charter of Fundamental Rights of the European Union.**
2. **Member States shall as soon as possible take measures to ensure that a representative represents and assists the unaccompanied minor during the screening. Where applicable, this representative shall be the same as the representative to be appointed in accordance with Article [23] of Directive (EU) XXX/XXX [Reception Conditions Directive]. The unaccompanied minor shall be informed immediately of the appointment of the representative. The representative shall perform his or her duties in accordance with the principle of the best interests of the child and shall have the necessary expertise to that end. In order to ensure the minor's well-being and social development the person acting as representative shall be changed only when necessary. Organisations or individuals whose interests conflict or could potentially conflict with those of the unaccompanied minor shall not be eligible to become representatives.**
3. **Member States shall place a natural person who is designated as representative or the person referred to in paragraph 2 in charge of a proportionate and limited number of unaccompanied minors and, under normal circumstances, of no more than thirty at the same time to ensure that he or she is able to perform his or her tasks effectively.**

Article 10

Verification of identity or identification

1. To the extent it has not yet occurred during the application of Article 8 of Regulation (EU) 2016/399, the identity of third-country nationals submitted to the screening pursuant to Article 3 ~~or Article 5~~ shall be verified or established, by using ~~in particular, where applicable, the following, in combination with national and European databases:~~
 - (a) identity, travel or other documents;
 - (b) data or information provided by ~~or obtained from~~ the third-country national concerned; and
 - (c) biometric data;
2. For the purpose of the **verification or** identification referred to in paragraph 1 **of this Article**, the **designated** competent authorities shall **query consult any relevant national databases as well as** the common identity repository (CIR) referred to in Article 17 of Regulation (EU) 2019/817 **and the Schengen Information System (SIS)**. The biometric data of ~~a~~ third-country ~~national taken live during~~ **nationals subject to** the screening, ~~as well as the identity data and, where available, travel document data~~ shall be **used to taken once for the purpose of both verification or identification and of the registration in Eurodac of that end-person.**
 - 2a. The consultation provided for in paragraph 2 shall be launched using the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and Chapter II of Regulation (EU) 2019/818.
 3. Where the biometric data of the third-country national cannot be used or where the **query consultation with of** those data ~~referred to in paragraph 2~~ fails, the **query consultation** as referred to in paragraph 2 shall be carried out with the identity data of the third-country national, in combination with any identity, travel or other document data or with the identity data provided by that third-country national.
 4. The checks, where possible, shall also include the verification of at least one of the biometric identifiers integrated into any identity, travel or other document.
 - 4a. **The European Border and Coast Guard Agency may support the competent authorities in the identification of third-country nationals submitted to the screening in accordance with Regulation (EU) 2019/1896.**

Article 11

Security check

1. Third-country nationals submitted to the screening pursuant to Article 3 ~~or Article 5~~ shall undergo a security check to verify ~~that whether they do not constitute~~ **might pose** a threat to internal security. The security check may cover both the third-country nationals and the objects in their possession. The law of the Member State concerned shall apply to any searches carried out.
2. For the purpose of conducting the security check referred to in paragraph 1, and to the extent that ~~they have this has not yet done so already taken place in the context of~~

checks performed in accordance with Article 8(3), ~~point (a)(vi)~~, of Regulation (EU) 2016/399, the ~~competent authorities shall query~~ relevant ~~national and~~ Union databases, in particular the Schengen Information System (SIS), **shall be consulted as provided for in Article 12. Relevant national databases in accordance with Article 8(3) of Regulation (EU) 2016/399 may also be consulted for this purpose.**

4. As regards the consultation of EES, ETIAS and VIS pursuant to paragraph 2 ~~3~~, the retrieved data shall be limited to indicating refusals of a travel authorisation, refusals of entry, or decisions to refuse, annul or revoke a visa or residence permit, which are based on security grounds.

~~3. To~~

- 4a. As regards the ~~extent it has not been already done during the checks referred to in Article 8~~ consultation of Regulation (EU) 2016/399, the ~~competent authority shall query the Entry/Exit System (EES), the European Travel Information and Authorisation System (ETIAS), including the ETIAS watch list referred to in Article 29 of Regulation (EU) 2018/1240, the Visa Information System (VIS), the ECRIS-TCN system as far as, the data retrieved shall be limited to convictions related to terrorist offences and other forms of serious criminal offences referred to in Article 5(1)(c) of Regulation (EU) 2019/816 are concerned, the Europol data processed.~~

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

~~for the purpose referred to in Article 18(2), point (a), of Regulation (EU) 2016/794, and the Interpol Travel Documents Associated with Notices database (Interpol TDAWN) with the data referred to in Article 10(1) and using at least the data referred to under point (c) thereof.~~

5. The Commission shall adopt implementing acts setting out the detailed procedure and specifications for retrieving data. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

Article 12

Modalities for the consultation of databases for security purposes

1. The ~~queries-consultation~~ provided for in ~~Article 10(2) and in~~ Article 11(2) **may of this Regulation shall** be launched using, for ~~queries consultations~~ related to EU information systems and the CIR, the European Search Portal in accordance with Chapter II of Regulation (EU) 2019/817 and with Chapter II of Regulation (EU) 2019/818¹⁷.
2. Where a **match hit** is obtained following a **query consultation** as provided for in Article 11(~~32~~) ~~against data in one of the information systems, the authorities~~

¹⁷ Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration, OJ L 135, 22.5.2019, p. 85.

responsible in accordance with relevant EU law provisions shall provide the competent authority ~~shall have access to consult the file corresponding to that match in the respective information system in order to determine the risk to with~~ detailed information on the grounds for the decisions recorded in the systems which triggered a hit or, pursuant to paragraphs 2b or 2c, an opinion on the threat to internal security as referred to in Article 11(1).

- 2a. When a hit is obtained following a consultation against the SIS, the competent authorities shall carry out the procedures set out in Regulations (EU) 2018/1860, Regulation (EU) 2018/1861 or Regulation (EU) 2018/1862 including the consultation of the alert-issuing Member State through the SIRENE Bureaux.
- 2b. Where the consultation provided for in Article 11(2) reports a hit against ECRIS-TCN, the central authority of the Member State holding criminal records information on the third country national concerned shall be notified of a request for an opinion in accordance with Article 7a of Regulation 2019/816. National criminal records shall be consulted prior to the delivery of that opinion.
3. Where a ~~query~~ consultation as provided for in Article 11(2 ~~3~~) reports a ~~match~~ hit against Europol data, ~~an automated notification, containing the data used for the consultation, shall be sent to the competent authority of the Member State shall inform~~ Europol in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation
- ~~4. Where a query as provided for in Article 11(3) reports a match against the Interpol Travel Documents Associated with Notices database (Interpol TDAWN), the competent authority of the Member State shall inform the Interpol National Central Bureau of the Member State that launched the query in order to take, if needed, any appropriate follow-up action in accordance with the relevant legislation.~~
- 4a. When a hit is obtained in the ETIAS watchlist, the provisions of Article 35a of Regulation (EU) 2018/1240 shall apply.
5. The Commission shall adopt ~~implementing~~ delegated acts in accordance with Article 14a in order to specify the procedure for cooperation between the authorities responsible for carrying out the screening, ~~Interpol National Central Bureaux, Europol national unit, and ECRIS-TCN central~~ other competent authorities, respectively, to verify whether a person might pose ~~determine the risk a threat~~ to internal security. ~~Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).~~

Article 13

~~De-briefing-Screening form~~

~~1. On completion of~~ To complete the screening, the competent authorities shall, with regard to the persons referred to in Article 3 ~~and in Article 5~~, complete the form in Annex I containing the following information:

- (a) name, date, ~~and~~ place of birth and ~~sex~~ gender;
- (b) ~~their~~ initial indication of nationalities ~~or statelessness~~, countries of residence prior to arrival and languages spoken;

- (c) ~~the reason for unauthorised arrival, entry, and, where appropriate illegal stay or residence, including~~ which the screening was performed as referred to in Article 3(1) and (2);
- (d) relevant information on the preliminary medical examination carried out in accordance with Article 9(1);
- (da) relevant information on the preliminary vulnerability assessment carried out in accordance with Article 9(2), in particular any vulnerability or special reception or procedural needs identified; ~~vulnerability or special reception or procedural needs identified during the screening, and on any health check or medical examination performed;~~
- (e) information as to whether the ~~person made an application~~ third-country national has applied for international protection;
- ~~(d)~~(ea) information as to whether the third-country national has family members or close adult relatives located on the territory of the Member States;
- (eb) whether the consultation of relevant databases for security purposes in accordance with Article 11 resulted in a hit or no hit.

2. Where such information is available, the form shall include:

- (a) the reason for irregular arrival or entry;
 - (b) information obtained on routes travelled, including the point of departure, the places of previous residence, the third countries of transit and those where international protection may have been sought or granted as well as the intended destination within the Union. ~~(c) information on assistance provided by a person or a criminal organisation in relation to unauthorised crossing of the border, and any related information in cases of suspected smuggling.~~
3. The information in the screening form shall be recorded in such a way that it is amenable to administrative and judicial review during any subsequent asylum or return procedure.
4. The person concerned shall be provided with a copy of the form before it is transmitted to the relevant authorities as referred to in paragraphs 1, 2 and 3 of Article 14. The person subject to the screening shall have the possibility to indicate that the information contained in the form is incorrect. Any such indication shall be included under the relevant information as referred to in this Article.

Article 14

Outcome Completion of the screening

1. Once the screening is completed, or when the period for carrying out the screening in accordance with Article 6(3) ends, ~~The~~ third-country nationals referred to in Article 3(1) point (a) and (b) of this Regulation who
- have not expressed a wish to make an application ~~have not applied~~ for international protection and

- with regard to whom the screening has not revealed that they fulfil entry conditions set out in Article 6 of Regulation (EU) 2016/399
- shall be referred to the competent authorities to apply procedures **respecting in accordance with** Directive (EU) 2008/115/EC [Return Directive], **without prejudice to the application of Article 6(5) of Regulation (EU) 2016/399.**

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

The form referred to in Article 13 shall be transmitted to the relevant authorities to whom the third country national is being referred.

2. Third-country nationals who **make, have made, or express the wish to make** an application for international protection shall be referred to the **determining** authorities referred to in Article ~~XY~~**[5]** of Regulation (EU) No XXX/XXX [Asylum Procedure Regulation], together with the form referred to in Article 13 of this Regulation. ~~On that occasion, the authorities conducting the screening shall point in the debriefing form to any elements which seem at first sight to be relevant to refer the third-country nationals concerned into the accelerated examination procedure or the border procedure.~~
3. Where the third country national is to be relocated under the mechanism for solidarity established by Article XX of Regulation (EU) No XXXX/XXXX [Dublin Regulation], the third-country national concerned shall be referred to the relevant authorities of the Member States concerned together with the form referred to in Article 13.
- ~~4. The third-country nationals referred to in Article 5, who~~
~~— have not applied for international protection and~~
~~— with regard to whom the screening has not revealed that they fulfil the conditions for entry and stay~~
~~shall be subject to return procedures respecting Directive 2008/115/EC.~~
- ~~5. Where third-country nationals submitted to the screening in accordance with Article 5 make an application for international protection as referred to in Article 25 of Regulation (EU) No XXX/XXX (Asylum Procedures Regulation), paragraph 2 of this Article shall apply accordingly.~~
- ~~6. In respect of third-country nationals to whom Regulation EU No XXX/XXX [Eurodac Regulation] applies, the competent authorities shall take the biometric data referred to in Articles [10, 13, 14 and 14a] of that Regulation (EU) and shall transmit it in accordance with that Regulation.~~
4. In order to be in a position to effectively exercise the rights referred to in Article 13 of Regulation (EU) 2016/679 [GDPR], in Article 13 of Directive (EU) 2016/680 [Police Directive] and in Article 15 of Regulation (EU) 2018/1725, in particular the right to request from the data controller access to and rectification or erasure of personal data and the right to lodge a complaint with a supervisory authority, the person concerned shall be provided with a copy of the form before it is transmitted to the relevant authorities as referred to in paragraphs 1, 2 and 3 of this Article. In the case of minors the copy of the form shall be provided to the adult(s) responsible for the child. In the case of unaccompanied minors, the form shall be provided to the child's representative in accordance with Article 9a.

7. Where the third-country nationals referred to in Articles 3(1) and **Article 5 (2) of this Regulation** are referred to an appropriate procedure regarding asylum, **relocation** or return, the screening ends. Where not all the checks have been completed within the deadlines referred to in Article 6(3)-~~and (5)~~, the screening shall nevertheless end with regard to that person, who shall be referred to a relevant procedure. **Where it becomes apparent during the screening that the third-country national concerned fulfils the entry conditions set out in Article 6 of Regulation (EU) 2016/399, the screening shall end.**
- 7a. **Persons identified as stateless or at risk of statelessness during the screening shall be referred to the competent authorities, which shall determine whether the individual is stateless and offer adequate protection, in accordance with national law.**
- 7b. **The Member State carrying out the screening procedure shall ensure that all personal data collected in the context of that procedure, in particular personal data included in the screening form, are deleted at the latest when:**
- (i) a final decision has been taken on the application for international protection, including any and all levels of appeal; or**
 - (ii) a final decision has been taken in respect of the return procedure, including any and all levels of appeal; or**
 - ~~**(iii) a refusal of entry has been issued, including any and all levels of appeal; or**~~
 - (iii) the person has been granted entry into the Member State concerned under Article 6(5) of Regulation (EU) 2016/299 [Schengen Borders Code].**

Article 14a

Exercise of the delegation

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

5. **As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.**
6. **A delegated act adopted pursuant to Article 12(5) shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of [two months] of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by [two months] at the initiative of the European Parliament or of the Council.**

Article 15

Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 16

Amendments to Regulation (EC) No 767/2008

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

(0) In Article 2, point ga is added:

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

(1) In Article 6, paragraph 2 is replaced by the following:

“2. Access to the VIS for the purposes of consulting the data shall be reserved exclusively for the duly authorised staff of the ETIAS Central Unit, of the national authorities of each Member State, including to duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240 of the European Parliament and of the Council, which are competent for the purposes laid down in Articles 15 to 22, for the duly authorised staff of the national authorities of each Member States and of the Union agencies, which are competent for the purposes laid down in Articles 20, **20a** and 21 of Regulation 2019/817, ~~and for the competent authorities provided under Article 6(6) of Regulation (EU) 2020/XXX of the European Parliament and of the Council~~¹⁸. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.”;

(1a) In Article 6, paragraph 2a is added:

¹⁸ ~~Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].~~

“2a. The authorities competent for the screening provided under Article 6(7) of Regulation (EU) 2020/xxxx (Screening)¹⁹ shall also have access to the VIS for consulting the data in order to perform a security check in accordance with Article 11(2) of that regulation.

A search in accordance with this paragraph shall be performed by using the data referred to in Article [10(1)] of Regulation (EU) 2020/xxxx²⁰ (screening) and the VIS shall return a hit where a decision to refuse, annul or revoke a visa or residence permit based on the grounds provided for in Article 12(2)(a)(v) and (vi) is recorded in a matching file.

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

Article 17

Amendments to Regulation (EU) 2017/2226

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

- (1) In Article 6(1), the following point (1) is added:
 - (1) support the objectives of the screening established by Regulation (EU) 2020/XXX of the European Parliament and of the Council²¹, **in particular by allowing** for the checks provided under Article 10 **and Article 11(2)** thereof.”
- (2) Article 9 is amended as follows:
 - (a) paragraph 1 is replaced by the following:

“2a. The ~~competent~~ authorities competent for the screening referred to in Article [6(7)] 5(6) of Regulation (EU) 2020/XXX shall have access to the EES to consult the data in order to perform a security check in accordance with Article 11(2) of that regulation.

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

Where a hit is obtained, the EES shall automatically notify the authority responsible for the refusal of entry decision referred to in

¹⁹ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

²⁰ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

²¹ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

the second subparagraph of a request to provide the screening authorities with detailed information on the grounds thereof within four days of notification of the request.”;

(b) paragraph 4 is replaced by the following:

“Access to the EES data stored in the CIR shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20, Article 20a and Article 21 of Regulation (EU) 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.”

Article 18

Amendments to Regulation (EU) 2018/1240

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

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

“(a) contribute to a high level of security by providing for a thorough assessment of applicants as regards the risk they may pose to internal security, prior to their arrival at external border crossing points, ~~and of persons subject to the screening referred to in Regulation (EU) 2020/XXX of the European Parliament and of the Council~~²² **[Screening Regulation]**, in order to determine whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk, **and by allowing for a security check in accordance with Article 11(2) of Regulation (EU) 2020/xxxx of the European Parliament and of the Council [Screening];**”

(1a) Article 13 is modified as follows:

(a) Paragraph 4a is amended as follows:

(4a) Access to the ETIAS identity data and travel document data stored in the CIR shall also be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union agencies that are competent for the purposes laid down in Article 20, Article 20a and Article 21 of Regulation (EU) 2019/817. Such access shall be limited according to the extent that the data are required for the performance of their tasks for those purposes, and proportionate to the objectives pursued.

(b) Paragraph 4b is inserted:

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

²² ~~Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].~~

A search in accordance with this paragraph shall be performed by using the data referred to in Article [10(1)], points (a) and (b), of Regulation (EU) 2020/XXX²³ (screening) and ETIAS shall return a hit where a decision refusing a travel authorisation based on point (b) of Article 37(1) is included in a matching (application) file.

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

If the search carried out pursuant to paragraph 1 indicates that there is a correspondence between the data used for the search and the data recorded in the ETIAS watchlist referred to in Article 34, the ETIAS National Unit or Europol having entered the data in the ETIAS watchlist shall be notified of the correspondence and shall be responsible for accessing the data in the ETIAS watchlist and for providing an opinion in accordance with Article 35a of that Regulation.”

- (1) ~~In Article 13, p~~ Paragraph 5 is replaced by the following:

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

- (4) the following Article 35a is inserted after Article 35:

“Article 35a

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

1. In cases referred to in the second sub-paragraph of Article 13(4b), the ETIAS Central System shall send an automated notification to the ETIAS National Unit or Europol having entered the data into the ETIAS watchlist.

Where the ETIAS National unit or Europol that entered the data into the watchlist consider that the third country national undergoing the screening might pose a security risk, they shall immediately notify the respective screening authorities and provide a reasoned opinion to the Member State performing the screening, within two days of the receipt of the notification, in the following manner:

²³ Regulation (EU) No XXX of the European Parliament and of the Council of [...] introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817].

- (a) **the ETIAS national units shall inform the screening authorities through a secure communication mechanism, to be set up by eu-LISA, between the ETIAS National Units on the one part and the screening authorities on the other;**
- (b) **Europol shall inform the screening authorities using the communication channels provided for in Regulation (EU) 2016/794.**

If no opinion is provided, it should be considered that there is no security risk.

Article 19

Amendments to Regulation (EU) 2019/817

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

- (1) In Article 17, paragraph 1 is replaced by the following:

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

“Article 20a

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

- 1. Queries of the CIR shall be carried out by the designated competent authority as defined in Article 6(7) of Regulation (EU) 2020/XXX, solely for the purpose of **verifying the identity of a person or** identifying a person according to Article 10 of that Regulation, provided that the procedure was initiated in the presence of that person.
- 2. Where the query indicates that data on that person are stored in the CIR, the competent authority shall have access to consult the data referred to in Article 18(1) as well as to the data referred to in Article 18(1) of Regulation (EU) 2019/818 of the European Parliament and the Council.”

Article 20
Evaluation

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

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

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

Article 21

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

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

Done at Brussels,

*For the European Parliament
The President*

*For the Council
The President*

ANNEX

Standard de-briefing form

1.Name:	2. Sex Gender:
3.Date of birth:	4.Place of birth:
5.Nationality/ies <i>or statelessness</i> (initial indication):	
6.Languages spoken:	
7.Reason to perform screening <i>for which the screening was performed:</i> <ul style="list-style-type: none"> A. Irregular entry Please specify also, as appropriate: no/forged/ falsified travel document, no/forged/ falsified visa or travel authorisation, other B. Arrival via search and rescue C. Application for international protection at a Border Crossing Point D. no indication of a border check at an external border: <ul style="list-style-type: none"> <input type="checkbox"/> no stamp in a travel document/no entry in the Entry Exit System <input type="checkbox"/> no travel document 	
7a. <i>Has the person applied for international protection?</i>	

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

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

8. Identification using IT databases was carried out: Yes No

If yes, result of identification:

9. Results of the consultation for security purposes:

Hit (add databases and reasons)

Where there is a hit

Possibly related to internal security

Unrelated to internal security

No Hit

10. *Preliminary medical examination was carried out* Yes No

10a. Immediate care provided: Yes No

10b. *Preliminary vulnerability, special reception or procedural needs check was carried out:*

Yes No

If yes, special reception or procedural needs identified:

Yes No

Details of vulnerability, or reception or procedural needs:

11. Isolation on public health grounds: Yes No

If yes, please provide dates, specific grounds, location:

12. Itinerary:

- a) places/countries of previous residence:
- b) point of departure:
- c) third countries and places (e.g. city, province) of transit and the duration of stay:
- d) modalities of transit (e.g. means of transportation, with a group, individual), assistance received (e.g. facilitators, modes of communication used), payments made/to be made, etc.:
- e) third countries where protection was sought:
- f) third countries where protection was granted:
- g) intended destination within the Union:

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

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

Yes ***No***

If yes, please provide details

14. Start of the screening: [DD/MM/YY]

End of the screening: [DD/MM/YY]

15. Authority to refer the person to:

16. Comments and other relevant information:

Signature

Person filling in the form

(Name + service)