

# Official Journal of the European Union

# L 57



English edition

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Volume 62

26 February 2019

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## II

(Non-legislative acts)

## REGULATIONS

## COMMISSION IMPLEMENTING REGULATION (EU) 2019/324

of 25 February 2019

**amending Implementing Regulation (EU) No 540/2011 as regards the approval periods of the active substances bifenthrin, carboxin, FEN 560 (also called fenugreek or fenugreek seed powder), pepper dust extraction residue and sodium aluminium silicate**

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 1107/2009 of the European Parliament and of the Council of 21 October 2009 concerning the placing of plant protection products on the market and repealing Council Directives 79/117/EEC and 91/414/EEC <sup>(1)</sup>, and in particular the first paragraph of Article 17 thereof,

Whereas:

- (1) Part A of the Annex to Commission Implementing Regulation (EU) No 540/2011 <sup>(2)</sup> sets out the active substances deemed to have been approved under Regulation (EC) No 1107/2009. Part B of the Annex to Implementing Regulation (EU) No 540/2011 sets out the active substances approved under Regulation (EC) No 1107/2009.
- (2) The approval period of the active substance bifenthrin was extended from 31 July 2019 until 31 July 2021 by Commission Implementing Regulation (EU) 2017/195 <sup>(3)</sup>.
- (3) The approval periods of the active substances pepper dust extraction residue and sodium aluminium silicate were extended from 31 August 2019 until 31 August 2020 by Implementing Regulation (EU) 2017/195.
- (4) The approval period of the active substance carboxin was extended from 31 May 2021 until 31 May 2023 by Commission Implementing Regulation (EU) 2018/1266 <sup>(4)</sup>.
- (5) The approval period of the active substance FEN 560 (also called fenugreek or fenugreek seed powder) was extended from 31 October 2020 until 31 October 2021 by Commission Implementing Regulation (EU) 2018/184 <sup>(5)</sup>.

<sup>(1)</sup> OJ L 309, 24.11.2009, p. 1.

<sup>(2)</sup> Commission Implementing Regulation (EU) No 540/2011 of 25 May 2011 implementing Regulation (EC) No 1107/2009 of the European Parliament and of the Council as regards the list of approved active substances (OJ L 153, 11.6.2011, p. 1).

<sup>(3)</sup> Commission Implementing Regulation (EU) 2017/195 of 3 February 2017 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of several active substances listed in Part B of the Annex to Implementing Regulation (EU) No 686/2012 (AIR IV renewal programme) (OJ L 31, 4.2.2017, p. 21).

<sup>(4)</sup> Commission Implementing Regulation (EU) 2018/1266 of 20 September 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances 1-decanol, 6-benzyladenine, aluminium sulfate, azadirachtin, bupirimate, carboxin, clethodim, cycloxydim, dazomet, diclofop, dithianon, dodine, fenazaquin, fluometuron, flutriafol, hexythiazox, hymexazol, indolybutyric acid, isoxaben, lime sulphur, metaldehyde, paclobutrazol, pencycuron, sintofen, tau-fluvalinate and tebufenozide (OJ L 238, 21.9.2018, p. 81).

<sup>(5)</sup> Commission Implementing Regulation (EU) 2018/184 of 7 February 2018 amending Implementing Regulation (EU) No 540/2011 as regards the extension of the approval periods of the active substances FEN 560 (also called fenugreek or fenugreek seed powder) and sulfuric fluoride (OJ L 34, 8.2.2018, p. 10).

- (6) Applications for the renewal of the approval of the active substances bifenthrin, carboxin, FEN 560 (also called fenugreek or fenugreek seed powder), pepper dust extraction residue and sodium aluminium silicate were submitted in accordance with Article 1 of Commission Implementing Regulation (EU) No 844/2012<sup>(6)</sup>. However, for pepper dust extraction residue and sodium aluminium silicate, no supplementary dossiers were submitted in support of the renewal in accordance with Article 6 of that Regulation. For bifenthrin, carboxin, and FEN 560 (also called fenugreek or fenugreek seed powder), the applicants have confirmed that they no longer support the renewal of approval of the active substances.
- (7) In view of the aim of the first paragraph of Article 17 of Regulation (EC) No 1107/2009, the extensions of the approval periods of those active substances, provided for by Implementing Regulations (EU) 2017/195, (EU) No 2018/1266 and (EU) 2018/184, are no longer justified. It is therefore appropriate to provide that the approvals of bifenthrin, carboxin, FEN 560 (also called fenugreek or fenugreek seed powder), pepper dust extraction residue and sodium aluminium silicate expire at the dates they would expire without the extension.
- (8) Implementing Regulation (EU) No 540/2011 should therefore be amended accordingly.
- (9) The measures provided for in this Regulation are in accordance with the opinion of the Standing Committee on Plants, Animals, Food and Feed,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Annex to Implementing Regulation (EU) No 540/2011 is amended in accordance with the Annex to this Regulation.

*Article 2*

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 all Member States.

Done at Brussels, 25 February 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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<sup>(6)</sup> Commission Implementing Regulation (EU) No 844/2012 of 18 September 2012 setting out the provisions necessary for the implementation of the renewal procedure for active substances, as provided for in Regulation (EC) No 1107/2009 of the European Parliament and of the Council concerning the placing of plant protection products on the market (OJ L 252, 19.9.2012, p. 26).

## ANNEX

The Annex to Implementing Regulation (EU) No 540/2011 is amended as follows:

(1) Part A is amended as follows:

- (a) in the sixth column, expiration of approval, of row 239, Pepper dust extraction residue (PDER), the date is replaced by '31 August 2019';
- (b) in the sixth column, expiration of approval, of row 253, Sodium aluminium silicate, the date is replaced by '31 August 2019';
- (c) in the sixth column, expiration of approval, of row 308, FEN 560 (also called fenugreek or fenugreek seed powder), the date is replaced by '31 October 2020';
- (d) in the sixth column, expiration of approval, of row 337, Carboxin, the date is replaced by '31 May 2021'.

(2) In Part B, in the sixth column, expiration of approval, of row 23, Bifenthrin, the date is replaced by '31 July 2019'.

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# DECISIONS

## COUNCIL DECISION (CFSP) 2019/325

of 25 February 2019

### amending Decision 2012/642/CFSP concerning restrictive measures against Belarus

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 29 thereof,

Having regard to the proposal from the High Representative of the Union for Foreign Affairs and Security Policy,

Whereas:

- (1) On 15 October 2012, the Council adopted Decision 2012/642/CFSP <sup>(1)</sup> concerning restrictive measures against Belarus.
- (2) On the basis of a review of that Decision, the restrictive measures against Belarus should be extended until 28 February 2020.
- (3) Decision 2012/642/CFSP should therefore be amended accordingly,

HAS ADOPTED THIS DECISION:

#### *Article 1*

Article 8 of Decision 2012/642/CFSP is replaced by the following:

#### *'Article 8*

1. This Decision shall apply until 28 February 2020.
2. This Decision shall be kept under constant review and shall be renewed or amended, as appropriate, if the Council deems that its objectives have not been met.'

#### *Article 2*

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

Done at Brussels, 25 February 2019.

*For the Council*

*The President*

G. CIAMBA

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<sup>(1)</sup> Council Decision 2012/642/CFSP of 15 October 2012 concerning restrictive measures against Belarus (OJ L 285, 17.10.2012, p. 1).

**COMMISSION IMPLEMENTING DECISION (EU) 2019/326**  
**of 25 February 2019**  
**laying down measures for entering the data in the Entry/Exit System (EES)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes and amending the Convention implementing the Schengen Agreement and Regulations (EC No 767/2008 and (EU) No 1077/2011 <sup>(1)</sup>), and in particular point (c) of the first paragraph of Article 36 thereof,

Whereas:

- (1) Regulation (EU) 2017/2226 established the Entry/Exit System (EES) as a system which registers electronically the time and place of entry and exit of third-country nationals admitted for a short stay to the territory of the Member States and which calculates the duration of their authorised stay.
- (2) The EES aims to improve the management of external borders, to prevent irregular immigration and to facilitate the management of migration flows. The EES should, in particular, contribute to the identification of any person who does not fulfil or no longer fulfils the conditions of duration of the authorised stay on the territory of the Member States. Additionally, the EES should contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offences.
- (3) Regulation (EU) 2017/2226 specifies the objectives of the EES, the categories of data to be entered into the EES, the purposes for which the data are to be used, the criteria for their entry, the authorities authorised to access the data, further rules on data processing and the protection of personal data, as well as the technical architecture of the EES, rules concerning its operation and use, and interoperability with other information systems. It also defines responsibilities for the EES.
- (4) Prior to the development of the EES it is necessary to adopt measures for the development and technical implementation of the EES.
- (5) Based on those measures, the European agency for the operational management of large-scale information systems in the area of freedom, security and justice should then be able to define the design of the physical architecture of the EES including its Communication Infrastructure, as well as the technical specifications of the system and to develop the EES.
- (6) The measures laid down by this Decision for the development and technical implementation of the EES should be completed by the Technical Specifications and the Interface Control Document of the EES.
- (7) This Decision is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council <sup>(2)</sup>.
- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2017/2226 and is not bound by it or subject to its application. However, given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 30 May 2018 its decision to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law to implement this Decision.

<sup>(1)</sup> OJ L 327, 9.12.2017, p. 20.

<sup>(2)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC <sup>(3)</sup>; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (10) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(4)</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (11) As regards Iceland and Norway, this Decision 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* <sup>(5)</sup>, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC <sup>(6)</sup>.
- (12) As regards Switzerland, this Decision 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* <sup>(7)</sup>, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(8)</sup>.
- (13) As regards Liechtenstein, this Decision 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* <sup>(9)</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(10)</sup>.
- (14) As regards Cyprus, Bulgaria, Romania and Croatia, the operation of the EES requires the granting of passive access to the VIS and the putting into effect of all the provisions of the Schengen *acquis* relating to the SIS in accordance with the relevant Council Decisions. Those conditions can only be met once the verification in accordance with the applicable Schengen evaluation procedure has been successfully completed. Therefore, the EES should be operated only by those Member States which fulfil those conditions by the start of operations of the EES. Member States not operating the EES from the initial start of operations should be connected to the EES in accordance with the procedure set out in Regulation (EU) 2017/2226 as soon as all of those conditions are met.
- (15) The European Data Protection Supervisor delivered an opinion on 20 July 2018.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Smart Borders Committee,

<sup>(3)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

<sup>(4)</sup> 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).

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(6)</sup> 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).

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(8)</sup> 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).

<sup>(9)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(10)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).



HAS ADOPTED THIS DECISION:

*Article 1*

The measures necessary for the technical implementation of the EES in relation to the procedures for entering data in accordance with Articles 16 to 20 of the Regulation (EU) 2017/2226 shall be as set out in the Annex to this Decision.

*Article 2*

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

Done at Brussels, 25 February 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

The data to be entered in the EES as provided for in Articles 16 to 20 of Regulation (EU) 2017/2226 are grouped into two categories: individual file and entry/exit/refusal records. The individual file consists of both alphanumeric and biometric data.

The technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226 shall define the business and validation rules to be applied to the data to be entered in EES.

### 1.1. Alphanumeric data

Most of the content stored in EES shall be extracted either from the Machine Readable Zone of the travel document or, where technically possible, electronically extracted from the electronic Machine Readable Travel Document (e-MRTD). It is therefore important that the information transmitted to the EES is compliant with the standards used for this, especially in the cases where it cannot be retrieved electronically and/or it has to be manually encoded by a border guard on the basis of data available in the Visual Inspection Zone. This applies only to the alphanumeric information that can be retrieved from the travel document's data page.

The following fields shall comply with the ICAO DOC9303 standard:

Article	Attribute	Standard
16(1)(a)	Surname (family name); first name(s) (given names)	ICAO DOC9303
16(1)(b)	Three-letter code of the issuing country of the travel document or documents	As per: ISO/IEC 3166-1 alpha-3 <sup>(1)</sup>
16(2)(d)	Three-letter code of the issuing Member State of a short stay visa sticker number	As per: ISO/IEC 3166-1 alpha-3
19(1)(d)	Three-letter code of the issuing country of a visa sticker	As per: ISO/IEC 3166-1 alpha-3

<sup>(1)</sup> Some exceptions compared to the ISO/IEC 3166-1 alpha-3 may exist and will be documented in the technical specifications referred to in article 37(1) of Regulation (EU) 2017/2226. Any evolution of the ISO/IEC 3166-1 alpha-3 standard will have to be reflected in the future.

In addition, the following rules shall be respected:

- (a) Article 16(2)(b) of Regulation (EU) 2017/2226 — border crossing point and authority that authorised the entry: the border crossing point is an authority of type Border Crossing Point. The list of authorities shall be maintained in accordance with the Article 9 of Regulation (EU) 2017/2226.
- (b) Article 16(2)(c)- A flag to identify that the entry was performed by a third-country national who:
  - is a member of the family of a Union citizen to whom Directive 2004/38/EC applies or of a national of a third country enjoying the right of free movement equivalent to that of Union citizens under an agreement between the Union and its Member States, on the one hand, and a third country, on the other; and
  - does not hold a residence card pursuant to Directive 2004/38/EC or a residence permit pursuant to Council Regulation (EC) No 1030/2002 <sup>(1)</sup>;
- (c) Article 16(2)(d) of Regulation (EU) 2017/2226 — short stay visa sticker number: the information shall be retrieved from VIS. In case the short stay visa sticker number has not changed since the previous entry or exit, the information already stored in EES can be re-used for the new entry or exit.
- (d) Article 16(6) of Regulation (EU) 2017/2226 — A flag to identify if the third country national benefits from a national facilitation programme.

#### 1.1.1. Data Quality

In order to improve data quality at an early stage, the functionality of the EES Central System (CS) shall include checking a set of data quality rules. Furthermore there will be data quality rules at the level of the national border infrastructure. The result of checking these rules against the data that has been entered can be seen as the quality status of data recorded.

<sup>(1)</sup> Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

The following order of priority shall be applied to compliance with quality rules:

- (a) Blocking rules at the level of the national border infrastructure of each Member State. Upon data entry, quality rules generate an error to the user, forbidding sending the data to EES. Such a blocking rule may rely on complex checks such as dependencies between EES data sets.
- (b) Blocking wrongly formatted messages at the level of the National Uniform Interface (NUI). Technically this is achieved through XSD definitions. Violating such a check would result in the system returning an error code forbidding saving the data in EES. The technical capabilities of such checks are limited in complexity to checking data types and patterns (such as checking the type of a value or its length).
- (c) Soft rules. Upon data entry, soft quality rules generate a warning to the user if not complied with. They do not prevent saving the data and triggering subsequent processes, but in such cases also generate a warning. The soft rules shall be assessed by the Central System at the time of storing the data.

The collected information on the quality shall be conveyed to the responsible user as well as any other user accessing these data. This information shall be displayed to the end user to allow the necessary corrective measures to be taken. The related technical details will be defined in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.

## 1.2. Biometric data

The biometric data covers the data related to the fingerprints and the facial image. This section sets out the rules that shall be applied to entering those data. The specifications of the standard, quality and resolution requirements for the biometric data are laid down in the Commission Implementing Decision laying down the specifications for the quality, resolution and use of fingerprints and facial image for biometric verification and identification in the Entry/Exit System (EES) <sup>(?)</sup>.

### 1.2.1. Facial Images

The facial image is mandatory pursuant to Article 15(1) of Regulation (EU) 2017/2226 and it shall be taken live in circumstances where the facial image of the e-MRTD is used (Article 15(2) of Regulation (EU) 2017/2226), a flag shall be used to inform the end user that the facial image is coming from the e-MRTD and, therefore, it shall be replaced at the next border crossing by a new live captured image where possible.

### 1.2.2. Fingerprints

In the case of a third country national exempt of visa obligation, the fingerprints shall be captured in accordance with Article 17(1)(c) of Regulation (EU) 2017/2226.

In case fingerprints are not required or cannot be provided, in accordance with Article 17(3) and (4) and Article 18(5) of Regulation (EU) 2017/2226, a field providing the reason why the fingerprints are not provided shall be implemented in the EES.

Reason	Detail	Value
Article 17(3)	Child under 12 years old	Not Applicable [Description field: 'Art. 17(3)']
Article 17(4)	Physically impossible indicated per finger	Not Applicable [Description field: 'Art. 17(4)']
Article 17(4)	Temporary impossibility indicated per finger	Temporary impossibility [Description field: 'Art 17(4)']
Article 18(5)	Third country national is refused entry on the basis of a reason corresponding to letter J of Annex V, Part B of Regulation (EU) 2016/399 of the European Parliament and of the Council <sup>(1)</sup>	Refusal of entry [Description field: 'Art. 18(5)']

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

<sup>(?)</sup> C(2019) 1280.

**COMMISSION IMPLEMENTING DECISION (EU) 2019/327**  
**of 25 February 2019**  
**laying down measures for accessing the data in the Entry/Exit System (EES)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulation (EC) No 767/2008 and (EU) No 1077/2011 <sup>(1)</sup>, and in particular point (d) of the first paragraph of Article 36 thereof,

Whereas:

- (1) Regulation (EU) 2017/2226 established the Entry/Exit System (EES) as a system which registers electronically the time and place of entry and exit of third-country nationals admitted for a short stay to the territory of the Member States and which calculates the duration of their authorised stay.
- (2) The EES aims to improve the management of external borders, to prevent irregular immigration and to facilitate the management of migration flows. The EES should, in particular, contribute to the identification of any person who does not fulfil or no longer fulfils the conditions of the authorised stay on the territory of the Member States. Additionally, the EES should contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offences.
- (3) Prior to the development of the EES it is necessary to adopt measures for the development and technical implementation of the EES.
- (4) Based on those measures, the European agency for the operational management of large-scale information systems in the area of freedom, security and justice should then be able to define the design of the physical architecture of the EES including its Communication Infrastructure, as well as the technical specifications of the system and to develop the EES.
- (5) The measures laid down by the present Decision for the development and technical implementation of the EES should be completed by the Technical Specifications and the Interface Control Document of the EES which will be developed by the European agency for the operational management of large-scale information systems in the area of freedom, security and justice.
- (6) This Decision is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council <sup>(2)</sup>.
- (7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2017/2226 and is not bound by it or subject to its application. However, given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 30 May 2018 its decision to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law to implement this Decision.
- (8) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC <sup>(3)</sup>; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

<sup>(1)</sup> OJ L 327, 9.12.2017, p. 20.

<sup>(2)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

<sup>(3)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(4)</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (10) As regards Iceland and Norway, this Decision 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* <sup>(5)</sup>, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC <sup>(6)</sup>.
- (11) As regards Switzerland, this Decision 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* <sup>(7)</sup>, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(8)</sup>.
- (12) As regards Liechtenstein, this Decision 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* <sup>(9)</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(10)</sup>.
- (13) As regards Cyprus, Bulgaria, Romania and Croatia, the operation of the EES requires the granting of passive access to the VIS and the putting into effect of all the provisions of the Schengen *acquis* relating to the SIS in accordance with the relevant Council Decisions. Those conditions can only be met once the verification in accordance with the applicable Schengen evaluation procedure has been successfully completed. Therefore, the EES should be operated only by those Member States which fulfil those conditions by the start of operations of the EES. Member States not operating the EES from the initial start of operations should be connected to the EES in accordance with the procedure set out in Regulation (EU) 2017/2226 as soon as all of those conditions are met.
- (14) The European Data Protection Supervisor delivered an opinion on 20 July 2018.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Smart Borders Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

##### Access to the EES by national authorities

Competent national authorities shall have access to the EES for verifying the identity and previous registration of the third-country national and for consulting the data required for the performance of their duty.

For this purpose, EES allows the searches to be executed by means of alphanumeric data (data referred to in Article 16(1)(a), (b) and (c), Article 16(2)(d) and Article 17(1)(a) of Regulation (EU) 2017/2226) and biometric data (data referred to in 16(1)(f) and 17(1) (b) of Regulation (EU) 2017/2226).

<sup>(4)</sup> 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).

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(6)</sup> 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).

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(8)</sup> 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).

<sup>(9)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(10)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

## Article 2

**Alphanumeric searches****1. Alphanumeric searches referred to in Article 23(2) of Regulation (EU) 2017/2226**

Border authorities shall have access to search with the following data:

- (a) surname (family name); first name or names (given names);
- (b) date of birth; nationality or nationalities; sex;
- (c) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents;
- (d) the date of expiry of the validity of the travel document or documents.

All data listed in the first subparagraph shall be used to initiate search. The data listed under point (a) may be searched in inexact mode while the other data shall be searched in exact mode.

The CS-EES shall ensure that if there is a match based on the data listed under the points (a) and (b) of the first paragraph, the corresponding file shall be returned by the system even if there is no match based on the data listed under points (c) and (d) of the first subparagraph.

**2. Alphanumeric searches referred to in Article 24 of Regulation (EU) 2017/2226**

Visa authorities of a Member State which does not yet apply the Schengen *acquis* in full but operates the EES shall have access to the search with the following data:

- (a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;
- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents, the date of expiry of the validity of the travel document or documents;
- (c) the short-stay visa sticker number, including the three-letter code of the issuing Member State.

Any combination of the data listed in the first subparagraph may be used as long as:

- the date of birth and the sex is used in combination with other data;
- the date of expiry of the validity of the travel document or documents is used together with the number of the travel document.

The data listed in points (a), (b) and (c) of the first subparagraph may be searched in inexact mode.

**3. Alphanumeric searches referred to in Article 25(2) of Regulation (EU) 2017/2226**

Competent authorities shall have access to search with the following data:

- (a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;
- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents;
- (c) the date of expiry of the validity of the travel document or documents.

Any combination of the data listed in the first subparagraph may be used as long as:

- the date of birth and the sex is used in combination with other data;
- the date of expiry of the validity of the travel document or documents is used together with the number of the travel document.

The data listed in points (a), (b) and (c) of the first subparagraph may be searched in inexact mode.

**4. Alphanumeric searches referred to in Article 26(1) of Regulation (EU) 2017/2226**

Immigration authorities shall have access to search with the following data:

- (a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;

- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents;
- (c) the date of expiry of the validity of the travel document or documents.

All data listed in the first subparagraph shall be used when performing this search.

The data listed in points (a), (b) and (c) of the first subparagraph may be searched in inexact mode.

#### **5. Alphanumeric searches referred to in Article 23(2) and the third subparagraph of Article 27(1) of Regulation (EU) 2017/2226**

Border and/or immigration authorities will have access to search with the following data:

- (a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;
- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents;
- (c) the date of expiry of the validity of the travel document or documents.

The data listed in points (a), (b) and (c) of the first subparagraph may be searched in inexact mode.

#### **6. Alphanumeric searches referred to in Article 32(5) of Regulation (EU) 2017/2226**

Designated authorities shall have access to search with the following data:

- (a) surname (family name); first name or names (given names); date of birth; nationality or nationalities; sex;
- (b) the type and number of the travel document or documents and the three-letter code of the issuing country of the travel document or documents, the date of expiry of the validity of the travel document or documents;
- (c) visa sticker number and the date of expiry of the validity of the visa;
- (d) date and time of entry, authority that authorised the entry and entry border crossing point;
- (e) date and time of exit and exit border crossing point.

Any combination of the data listed in the first subparagraph may be used.

The data listed in points (a), (b) and (c) of the first subparagraph may be searched in inexact mode.

#### *Article 3*

#### **Biometric searches**

The conditions under which the biometric search may be performed shall be as set out in the Commission Implementing Decision laying down the specifications for the quality, resolution and use of fingerprints and facial image for biometric verification and identification in the Entry/Exit System (EES) <sup>(1)</sup>.

#### *Article 4*

#### **Entry into force**

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

Done at Brussels, 25 February 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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<sup>(1)</sup> C(2019) 1280.

**COMMISSION IMPLEMENTING DECISION (EU) 2019/328****of 25 February 2019****laying down measures for keeping and accessing the logs in the Entry/Exit System (EES)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011 <sup>(1)</sup>, and in particular point (f) of the first paragraph of Article 36 thereof,

Whereas:

- (1) Regulation (EU) 2017/2226 established the Entry/Exit System (EES) as a system which registers electronically the time and place of entry and exit of third-country nationals admitted for a short stay to the territory of the Member States and which calculates the duration of their authorised stay.
- (2) The EES aims to improve the management of external borders, to prevent irregular immigration and to facilitate the management of migration flows. The EES should in particular contribute to the identification of any person who does not fulfil or no longer fulfils the conditions of the authorised stay on the territory of the Member States. Additionally, the EES should contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offences.
- (3) Prior to the development of the EES it is necessary to adopt measures for the development and technical implementation of the EES.
- (4) Based on those measures, the European agency for the operational management of large-scale information systems in the area of freedom, security and justice should then be able to define the design of the physical architecture of the EES including its Communication Infrastructure, as well as the technical specifications of the system and to develop the EES.
- (5) The measures laid down by this Decision for the development and technical implementation of the EES should be completed by the Technical Specifications and the Interface Control Document of the EES which will be developed by the European agency for the operational management of large-scale information systems in the area of freedom, security and justice.
- (6) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2017/2226 and is not bound by it or subject to its application. However, given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 30 May 2018 its decision to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law to implement this Decision.
- (7) This Decision is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council <sup>(2)</sup>.
- (8) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC <sup>(3)</sup>; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

<sup>(1)</sup> OJ L 327, 9.12.2017, p. 20.

<sup>(2)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

<sup>(3)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).



- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(4)</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (10) As regards Iceland and Norway, this Decision 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* <sup>(5)</sup>, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC <sup>(6)</sup>.
- (11) As regards Switzerland, this Decision 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* <sup>(7)</sup>, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(8)</sup>.
- (12) As regards Liechtenstein, this Decision 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* <sup>(9)</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(10)</sup>.
- (13) As regards Cyprus, Bulgaria, Romania and Croatia, the operation of the EES requires the granting of passive access to the VIS and the putting into effect of all the provisions of the Schengen *acquis* relating to the SIS in accordance with the relevant Council Decisions. Those conditions can only be met once the verification in accordance with the applicable Schengen evaluation procedure has been successfully completed. Therefore, the EES should be operated only by those Member States which fulfil those conditions by the start of operations of the EES. Member States not operating the EES from the initial start of operations should be connected to the EES in accordance with the procedure set out in Regulation (EU) 2017/2226 as soon as all of those conditions are met.
- (14) The European Data Protection Supervisor delivered an opinion on 20 July 2018.
- (15) The measures provided for in this Decision are in accordance with the opinion of the Smart Borders Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

The measures necessary for the technical implementation of the EES in relation to the procedures for keeping and accessing the logs in accordance with Article 46 of the Regulation (EU) 2017/2226 shall be as set out in the Annex to this Decision.

<sup>(4)</sup> 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).

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(6)</sup> 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).

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(8)</sup> 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).

<sup>(9)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(10)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

*Article 2*

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

Done at Brussels, 25 February 2019.

*For the Commission*  
*The President*  
Jean-Claude JUNCKER

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## ANNEX

## 1. KEEPING THE LOGS OF DATA PROCESSING OPERATIONS

In this Annex, no distinction is made regarding the logs that could be stored at Entry/Exit Central System (CS-EES) level or at NUI level as all logs will be consolidated at CS-EES level.

Each data processing operation within the EES shall be recorded as a log entry. The log entry shall have a specific field allowing for the identification of the operation performed including the purpose of access in accordance with Article 46(1) (a) of Regulation (EU) 2017/2226. All data transmitted shall be logged; in case of VIS consultations, provisions laid down in Article 34 of Regulation (EC) 767/2008 of the European Parliament and of the Council <sup>(1)</sup> shall also be applied.

The log entry shall be recorded with the qualified electronic timestamp with the time and date the data was received. This timestamp shall later be used to identify the log entries to be deleted as per the retention period for each type of log in accordance with Article 46(4) of Regulation (EU) 2017/2226.

For all data processing operations, a unique ID of the authority entering or retrieving the data shall be stored in the log entry. The authority and the central EES shall be specified in the log entry either as a sender or as a recipient.

The data transmitted or used for interrogation referred to in Article 46(1) (c) and (d) of Regulation (EU) 2017/2226 shall be archived in the log. In the case of consultation of the overstayer report, the data referred to in Article 46(1) (a), (b) (d) and (e) of Regulation (EU) 2017/2226 shall be logged.

Logs as referred to in Article 46 of Regulation (EU) 2017/2226, shall be recorded in the CS-EES. The CS-EES shall proceed daily to the deletion of log entries in accordance with Article 46(4) of Regulation (EU) 2017/2226. All logs pertaining to the same third-country national and corresponding to an operation 'delete Files or Entry/Exit/Refusal Records' or 'automatic deletion' shall be deleted one year after that deletion, unless identified as to be kept for data-protection monitoring purposes, in accordance with Article 46(4) of Regulation (EU) 2017/2226. Provisions for avoiding the deletion of the latter logs shall be created in a way as to flag each individual log and any associated log.

Logs of data processing operations shall neither be modified nor deleted before one year after the expiration of the retention period referred to in Article 34 of Regulation (EU) 2017/2226.

## 2. ACCESSING THE LOGS OF DATA PROCESSING OPERATIONS

Access to the logs kept by eu-LISA in accordance with Article 46 of Regulation (EU) 2017/2226 shall be restricted to duly authorised eu-LISA administrators of the EES, the European Data Protection Supervisor and the national supervisory authorities. Access to these logs shall likewise be traceable. This provision shall apply to logs recording access to the logs *mutatis mutandis*.

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

**COMMISSION IMPLEMENTING DECISION (EU) 2019/329****of 25 February 2019****laying down the specifications for the quality, resolution and use of fingerprints and facial image for biometric verification and identification in the Entry/Exit System (EES)**

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes and amending the Convention implementing the Schengen Agreement and Regulation (EC) No 767/2008 and Regulation (EU) No 1077/2011 <sup>(1)</sup>, and in particular points (a) and (b) of Article 36 first paragraph thereof,

Whereas:

- (1) Regulation (EU) 2017/2226 established the Entry/Exit System (EES) as a system which registers electronically the time and place of entry and exit of third-country nationals admitted for a short stay to the territory of the Member States and which calculates the duration of their authorised stay.
- (2) The EES aims to improve the management of external borders, to prevent irregular immigration and to facilitate the management of migration flows. The EES should, in particular, contribute to the identification of any person who does not fulfil or no longer fulfils the conditions of the authorised stay on the territory of the Member States. Additionally, the EES should contribute to the prevention, detection and investigation of terrorist offences and of other serious criminal offences.
- (3) As quality and reliability of biometric data are key success factors for EES to reach its full potential, it is necessary to lay down the specifications for the quality, resolution and use of both fingerprints and facial image for biometric verification and identification in the EES, including where taken live or extracted electronically from the electronic Machine Readable Travel Document (eMRTD). As the quality of registered fingerprints will have impacts years after registration on the proper functioning of the EES, environmental and operational factors of fingerprint quality registration should be closely monitored on the long run.
- (4) This decision does not create any new standards; it is coherent with ICAO standards.
- (5) Based on those measures, the European agency for the operational management of large-scale information systems in the area of freedom, security and justice should then be able to define the design of the physical architecture of the EES including its Communication Infrastructure, as well as the technical specifications of the system and to develop the EES.
- (6) In this framework, it is thus necessary to adopt specifications for the quality, resolution and use of fingerprints and facial image for biometric verification and identification in the Entry/Exit System (EES).
- (7) This Decision is without prejudice to the application of Directive 2004/38/EC of the European Parliament and of the Council <sup>(2)</sup>.
- (8) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark did not take part in the adoption of Regulation (EU) 2017/2226 and is not bound by it or subject to its application. However, given that Regulation (EU) 2017/2226 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of that Protocol, notified on 30 May 2018 its decision to implement Regulation (EU) 2017/2226 in its national law. Denmark is therefore bound under international law to implement this Decision.

<sup>(1)</sup> OJ L 327, 9.12.2017, p. 20.

<sup>(2)</sup> Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158, 30.4.2004, p. 77).

- (9) This Decision constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC <sup>(3)</sup>; the United Kingdom is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (10) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC <sup>(4)</sup>; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.
- (11) As regards Iceland and Norway, this Decision 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* <sup>(5)</sup>, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC <sup>(6)</sup>.
- (12) As regards Switzerland, this Decision 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* <sup>(7)</sup>, which fall within the area referred to in Article 1, point A of Decision 1999/437/EC, read in conjunction with Article 3 of Council Decision 2008/146/EC <sup>(8)</sup>.
- (13) As regards Liechtenstein, this Decision 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* <sup>(9)</sup> which fall within the area referred to in Article 1, point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU <sup>(10)</sup>.
- (14) As regards Cyprus, Bulgaria, Romania and Croatia, the operation of the EES requires the granting of passive access to the VIS and the putting into effect of all the provisions of the Schengen *acquis* relating to the SIS in accordance with the relevant Council Decisions. Those conditions can only be met once the verification in accordance with the applicable Schengen evaluation procedure has been successfully completed. Therefore, the EES should be operated only by those Member States which fulfil those conditions by the start of operations of the EES. Member States not operating the EES from the initial start of operations should be connected to the EES in accordance with the procedure set out in Regulation (EU) 2017/2226 as soon as all of those conditions are met.
- (15) The European Data Protection Supervisor delivered an opinion on 27 July 2018.
- (16) The measures provided for in this Decision are in accordance with the opinion of the Smart Borders Committee,

HAS ADOPTED THIS DECISION:

#### Article 1

1. The specifications relating to the quality, resolution and use of fingerprints for biometric verification and identification in the EES are set out in the Annex

<sup>(3)</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

<sup>(4)</sup> 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).

<sup>(5)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(6)</sup> 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).

<sup>(7)</sup> OJ L 53, 27.2.2008, p. 52.

<sup>(8)</sup> 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).

<sup>(9)</sup> OJ L 160, 18.6.2011, p. 21.

<sup>(10)</sup> Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

2. The specifications for the quality, resolution and use of the facial image for biometric verification and identification in the EES, including where taken live or extracted electronically from the eMRTD are set out in the Annex.

*Article 2*

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

Done at Brussels, 25 February 2019.

*For the Commission*

*The President*

Jean-Claude JUNCKER

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## ANNEX

## 1. QUALITY

1.1. **Thresholds**1.1.1. *Fingerprints*

## Enrolment

At the moment of enrolment, the version 2.0 (or newer version) of the Fingerprint Image Quality (NFIQ) metric <sup>(1)</sup> defined by the National Institute of Standards and Technology (NIST) shall be used for verifying that the quality of the captured fingerprint data respects the thresholds that shall be specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.

For the purpose of enrolment, the quality of fingerprint data shall be assessed:

- at national level by Member States at the time of capture prior to their transmission to the EES Central System (CS-EES), optionally with the support of a tool provided, maintained and updated by eu-LISA, and,
- at central level.

## Verification

For the purpose of verification, it is recommended to assess the quality of fingerprints data by Member States at the time of capture prior to their transmission to the CS-EES either by using version 2.0 (or newer version) of the NIST Fingerprint Image Quality (NFIQ) metric or, where technically impossible, by using another metric which should preferably be correlated with the NFIQ version 2.0 (or newer version). The correlation shall be derived a priori. If a NFIQ version 2.0 (or newer version) quality metric is obtained, it has to be sent at the same time as the fingerprint data to the CS-EES.

1.1.2. *Facial images*

The quality of the facial images, including near infrared ones, shall comply with the thresholds specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226 and with the image requirements of ISO/IEC 19794-5:2011 Frontal image type. The quality of the facial image shall be assessed at national level by Member States at the time of capture prior to their transmission to the CS-EES, optionally with the support of a tool provided, maintained and updated by eu-LISA. The facial quality algorithm shall be comprehensible in terms of the ISO/IEC 19794-5:2011 criteria.

The quality threshold for the facial images shall be fixed using a facial image quality assessment algorithm based on the quality measures outlined in ISO 19794-5 and provide quality checks analogous to those implemented at the CS-EES <sup>(2)</sup>.

1.2. **Performance values for biometric accuracy**

## Definitions

The performance values for biometric accuracy defined in Article 3 of Regulation (EU) 2017/2226 are:

- (29) “Failure To Enrol Rate” (FTEr) means the proportion of registrations with insufficient quality of the biometric enrolment;
- (30) “False Positive Identification Rate” (FPIR) means the proportion of returned matches during a biometric search which do not belong to the checked traveller;
- (31) “False Negative Identification Rate” (FNIR) means the proportion of missed matches during a biometric search even though the traveller’s biometric data were registered.’

The ‘biometric search’ referred to in points (30) and (31) is the same as a biometric identification or ‘1 to N’ search

In compliance with Article 36 first paragraph point (g) of Regulation (EU) 2017/2226 the opportunity is left to the implementing act to define additional values of biometric performance.

The False Match(ing) Rate (FMR) is the proportion of impostor attempts that are falsely declared to match a template of another object (a person’s biometric template).

<sup>(1)</sup> <https://www.nist.gov/services-resources/software/development-nfiq-20>

<sup>(2)</sup> Where possible an assessment and validation of the facial images against the criteria of ICAO document 9303 §3.9, and the French Visual and User Recommendation for French Visa Applications shall be performed.

The False Non-Match(ing) Rate (FNMR) is the proportion of genuine attempts that are falsely declared not to match a template of the same object.

A genuine attempt is a single attempt by a user to match his/her own stored template. An impostor attempt is the opposite — a user's template is matched against someone else's template.

### 1.2.1. Failure To Enroll Rate

The target value for the Failure To Enroll Rate is zero. Member States shall take care to avoid such cases by using a quality-focused enrolment process.

### 1.2.2. Accuracy of biometric verification

The maximum values of the False Non-Matching Rate (FNMR) at a False Matching Rate (FMR) = 0,05 % (5 per 10 000) are:

Type	FMR	FNMR
Fingerprint	0,05 %	< 0,5 %
Facial Image	0,05 %	< 1 %

### 1.2.3. Accuracy of biometric identification

The maximum values of the False Negative Identification Rate at a False Positive Identification Rate = 0,1 % (1 per 1 000) are:

Type	FPIR	FNIR
Fingerprint	0,1 %	< 1,5 %
Facial Image and Fingerprint (multi-modal)	0,1 %	< 1 %

## 1.3. Monitoring of biometric accuracy performance

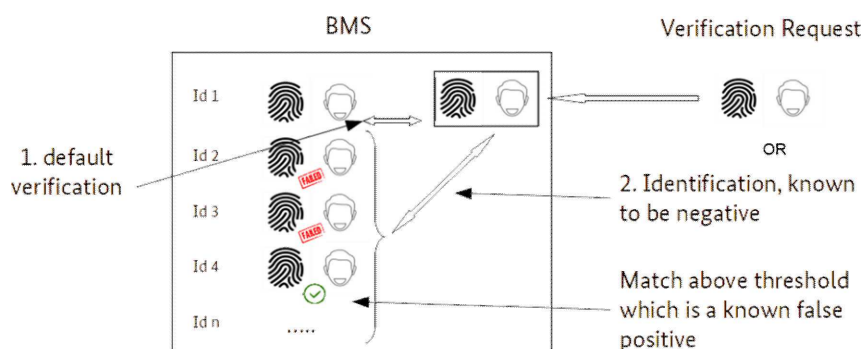
Biometric accuracy performance shall be measured on the actual data captured by each Member State based on a representative sample of cases on a daily basis at border crossing points of choice. The measurement is managed centrally, fully automated and does not require the access to personal data by the operator.

The measurement of biometric performance does not need to be done continuously: it may be disabled or enabled but shall be carried out by eu-LISA on a regular basis (at least monthly).

The measurement of biometric performance does not use biometric data itself. The templates of images used for the accuracy measurement are automatically deleted after execution of the evaluation process. All results of the performance measurement shall not contain personal information.

### 1.3.1. Measurement of the FPIR (False Positive Identification Rate)

The following figure shows that the templates for the biometric sample of both fingerprints and facial image are contained in the Biometric Matching System for a number 'n' of identities.





The measurement process shall be as follows:

1. A person subject to registration in the EES submits a sample of one or both of the two biometric modalities (fingerprints and facial image).
2. The biometric verification is conducted with the biometric reference data corresponding with the identity of the person (step 1 of the figure called 'default verification').
3. For a continuous sample set, the second biometric modality is obtained from the same person (either was submitted together with step 1 or it can be extracted from the biometric reference data corresponding to the identity of the person). The combined biometrics are used to run an identification on the complete gallery size excluding the biometrics of the person to whom the biometric sample belongs (step 2 of the figure called 'identification known to be negative'). This identification process is expected to yield a zero result as the matching biometric sample has been voluntarily removed from the comparison.

In the event the modality used in step 2 corresponds to the fingerprint, an identification (to evaluate the fingerprint identification accuracy) is carried out under the same conditions mentioned in the first subparagraph.

4. In the case where the biometric identification returns a biometric sample (indicated as 'match above threshold') this is a known false *positive* identification (another person than the expected one is returned).

Steps 1 and 2 belong to the identity verification process that is part of the EES. Steps 3 and 4 do not belong to the identity verification process and are done for measuring the biometric accuracy performance.

The FPIR (False Positive Identification Rate) is computed as:

$$FPIR = \frac{\text{Number of identifications where an identifier is returned}}{\text{Number of all known negative identification transactions}}$$

### 1.3.2. Measurement of FNIR (False Negative Identification Rate)

The figure in point 1.3.1 applies to the description that follows.

The measurement process shall apply the following logic where the first two steps are always the same as they belong to the identity verification process that is part of the EES:

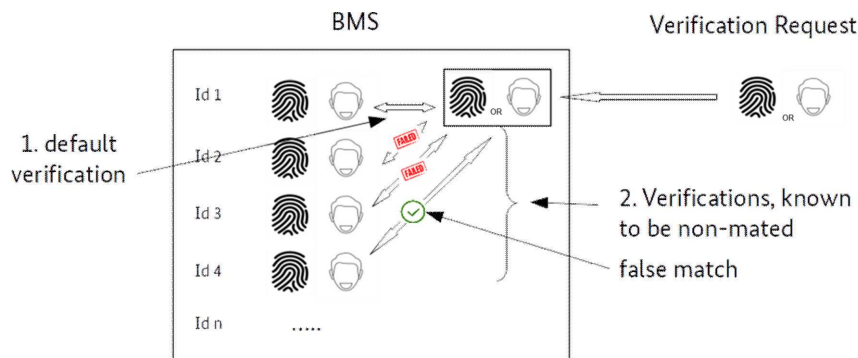
1. A person subject to registration in the EES submits a sample of one or both of the two biometric modalities.
2. The biometric verification is conducted with the biometric reference data corresponding with the identity of the person (step 1 of the figure called 'default verification').
3. For a continuous sample set, a second biometric modality is obtained either from the same person in the case both biometric modalities were submitted in step 1 or from another person for whom steps 1 and 2 of this process were triggered). The combined biometrics are used to run an identification on the complete gallery size including the biometrics of the person(s) to whom the biometric sample belongs. This identification process is expected to yield the known result as the matching biometric sample is included in the comparison.
4. In the event the modality used in step 2 corresponds to the fingerprint, an identification (to evaluate the fingerprint identification accuracy) is carried out under the same conditions mentioned in paragraph 3.
5. In the case where the biometric identification does not return the expected biometric sample (indicated as 'match above threshold') in the hit list, this is a known false *negative* identification.

Steps 1 and 2 belong to the identity verification process that is part of the EES. Steps 3 and 4 do not belong to the identity verification process and are done for measuring the biometric accuracy performance.

The FNIR (False Negative Identification Rate) is computed as:

$$FNIR = \frac{\text{Number of identifications where the biometric subject's correct identifier is not returned}}{\text{Number of all identification transactions}}$$

### 1.3.3. Measurement of the biometric accuracy for verification (False Matching Rate and False Non Matching Rate)



The measurement process shall apply the following logic:

1. A person to whom the EES applies submits a sample of one of the two biometric modalities.
2. The biometric verification is conducted with the biometric reference data corresponding with the identity of the person (step 1 of the figure called 'default verification').

Steps 1 and 2 belong to the identity verification process that is part of the EES. The measurement of the biometric accuracy starts from here.

3. The verification of the biometric sample is executed vs a number of other biometric samples randomly taken from the biometric gallery which do not include the biometrics provided. The expected result is that the verifications will fail (this refers to point 2 of the figure 'verifications known to be non-mated'). Any match would mean a false match.

Step 3 allows the calculation of the **False Matching Rate** (the match occurs with another person than the owner of the data):

$$FMR = \frac{\text{Number successful non mated comparisons}}{\text{Number of non mated comparisons}}$$

Note: The number of non mated comparisons is the number of comparisons done under step 3)

Step 2 allows the calculation of the **False Non Matching Rate** (the match does not occur with the owner of the biometrics), in the case the identity has been confirmed by other means, on the basis of

$$FNMR = \frac{\text{Number of failed comparisons}}{\text{Number of assumed mated comparisons}}$$

Note: The number of mated comparisons is called 'assumed' as there is no absolute certainty that an impostor is not included in the set of identities the comparison is made with.

### 1.4. Replacement of biometrics to improve the quality or to replace a picture which was extracted from the eMRTD with a live capture facial image of the CS-EES gallery

Replacement of biometrics shall only occur upon successful biometric verification of the identity.

#### 1.4.1. Replacement of the stored fingerprint data

The procedure for replacement of stored fingerprint data, which does not reach the required quality, shall be described in the practical handbook referred to in Article 71 of Regulation (EU) 2017/2226.

In the case of replacement of the left hand by the right hand (or vice versa), an identification with the newly captured fingerprints shall be launched to guarantee it does not correspond to another identity already registered into the system.

#### 1.4.2. Replacement of the stored facial images

The procedure for replacement of a stored facial image, which does not reach the required quality, or which was extracted from the chip of the electronic Machine Readable Travel Document, shall be described in the practical handbook referred to in Article 71 of Regulation (EU) 2017/2226.

## 2. RESOLUTION

### 2.1. Fingerprints

The CS-EES shall receive fingerprint data of a nominal resolution of either 500 or 1 000 ppi (with an acceptable deviation of +/- 10 ppi) with 256 grey levels.

The fingerprint data shall be submitted in accordance with the ANSI/NIST-ITL 1-2011 Update 2015 standard (or newer version) and as specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.

### 2.2. Facial images

#### 2.2.1. Definition

The CS-EES shall receive live facial images at a resolution (in portrait mode) of minimum of 600 pixels by 800 pixels and maximum of 1 200 pixels by 1 600 pixels.

The face shall occupy a sufficient space within the image so as to ensure that there is a minimum of 120 pixels between the centres of the eyes.

#### 2.2.2. Colours

When a facial image is taken live, it shall be a colour image. In exceptional cases when a colour image cannot be captured, grayscale or near infrared capture may be used. In such a case, if the quality of the grayscale or near infrared image is sufficient, it may be used for verification or identification but not for enrolment. Grayscale images are accepted for enrolment only when they are extracted from the chip of the travel document.

Specific rules concerning the near infrared facial images shall be described in the handbook in accordance with Article 71 of Regulation (EU) 2017/2226.

## 3. USE OF BIOMETRICS

### 3.1. Entry and Storage

#### 3.1.1. Fingerprints

CS-EES shall store the fingerprint data from four fingers flat <sup>(3)</sup>. When available, fingerprints from the following fingers of the right hand shall be used: the index finger, middle finger, ring finger, little finger.

Where it is impossible to obtain any fingerprint using the mentioned fingers of the right hand, the four fingerprints shall be captured from the left hand, where available. In such cases where the impossibility to obtain four fingerprints of the right hands is of a temporary nature, the fingerprint data shall be explicitly marked and, if the temporary impossibility does not exist anymore, the fingerprint data of the right hand shall be taken on exit or at subsequent entry in accordance with the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226 (temporary impossibility).

In order to meet the applicable threshold, the re-capture of fingerprint data should be undertaken, if necessary, twice for any particular data subject (i.e. a total of three capture attempts should be made). Re-capture attempts should involve use of all fingers as initially attempted.

Fingerprint data that do not meet the applicable quality threshold:

(1) shall be stored in the CS-EES;

(a) biometric verifications shall be done against those data;

(b) biometric identifications shall not be done against fingerprints not meeting the quality threshold except in the case of law enforcement purposes;

(2) shall be flagged by the national system in accordance with the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226 (technical impossibility) to allow their capture at the next border crossing.

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<sup>(3)</sup> The term 'flat' is used in accordance with the ISO/IEC dictionary and is the same as the term 'plain' used in the ANSI//NIST standard.

The NIST file sent by national systems to CS-EES and stored there, shall also contain the conditions of fingerprint registration including the level of monitoring carried out by the authorities and the method used for acquiring four finger flat images, as specified by the ANSI/NIST-ITL 1-2011: Update 2015 standard <sup>(4)</sup> (or newer version).

### 3.1.2. Facial Image

CS-EES shall store the live facial image captured at the border crossing point and submitted as part of a NIST container to the CS-EES as specified by the ANSI/NIST-ITL 1-2011: Update 2015 standard (or newer version).

In exceptional cases, where it is impossible to obtain a facial image of sufficient quality from the live subject, enrolment from the document chip of an electronic Machine Readable Travel Document (eMRTD) is requested, where it is technically accessible and after successful electronic verification according to the process that shall be described in the practical handbook referred to in Article 71 of Regulation (EU) 2017/2226.

Images scanned from the biographic page of the travel document shall be not used and shall not be transmitted to the CS-EES.

The photographs of visa applicants stored in the Visa information System (VIS) established pursuant to Regulation (EC) No 767/2008 of the European Parliament and of the Council <sup>(5)</sup> shall not be used for carrying out any electronic biometric verification or identification with the CS-EES.

Due to practical reasons, the quality threshold of facial images captured from live persons solely for the purposes of verification against those stored in the CS-EES are not compulsory. Successful verification according to the agreed matching score thresholds would however require images with sufficient quality even in these cases.

In order to meet the set quality threshold, particularly when it is impossible to extract electronically a facial image from the chip of an electronic eMRTD <sup>(6)</sup>, the following measures shall apply:

- (1) In cases where the face capture unit enrolls images in a continuous stream, re-capture shall be taken over sufficient amount of time, so that the optimal image obtained within the capture stream is transmitted to the CS-EES. A lower-quality sample sent shall be flagged as such by the CS-EES as specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.
- (2) In cases where the face capture unit enrolls static single images upon activation by an operator, a sufficient amount of recaptures shall be taken, so that the optimal image obtained is transmitted to the CS-EES. A lower-quality sample transmitted shall be flagged as such to the CS-EES as specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.

A best practice guide to be followed for capturing facial images referred to in the previous two points of this paragraph shall be included in the practical handbook referred to in Article 71 of Regulation (EU) 2017/2226.

### 3.1.3. Image compression

#### Fingerprint images

The compression algorithm to be used shall follow the NIST recommendations. As a result, the fingerprint data with a resolution of 500 ppi shall be compressed using the WSQ algorithm (ISO/IEC 19794) while 1 000 ppi fingerprint data shall use the JPEG 2000 image compression standard (ISO/IEC 15444-1) and coding system. The target compression ratio is 15:1.

#### Facial images

Images compressed with JPG (ISO/IEC 10918) or JPEG 2000 (JP2) (ISO/IEC 15444-1) image compression standard and coding system shall be submitted to the CS-EES as specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226. The maximum allowed image compression rate is 1:20.

<sup>(4)</sup> ANSI/NIST-ITL 1-2011 Standard 'Data Format for the Interchange of Fingerprint, Facial, Scar Mark & Tattoo (SMT) Information', accessible on: <https://www.nist.gov/publications/data-format-interchange-fingerprint-facial-other-biometric-information-ansinist-itl-1-1>.

<sup>(5)</sup> Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

<sup>(6)</sup> This may be the case when the traveler does not possess an electronic document, or in instances when their travel document contains a facial image token rather than the image itself, as permitted by ICAO Document 9303, for example.

### 3.2. Biometric verifications

#### 3.2.1. Fingerprints

CS-EES shall be able to perform biometric verifications using one, two or four fingers flat.

In the case where four fingers flat are used, fingerprint data from the following fingers shall be used: the index finger, middle finger, ring finger, little finger.

In the case where one or two fingers flat are used, the following fingers shall be used by default:

- (a) one finger: index finger;
- (b) two fingers: index finger and middle finger.

Alternatively, the following fingers may be used:

- (a) One finger: the first finger available for acquisition by the following order — index finger, middle finger, ring finger, little finger.
- (b) Two fingers: the first two fingers available for acquisition by the following order — index finger, middle finger and ring finger. Little finger may be also considered as a second one (only) for verification, should no other possibility exist.

In all cases:

- (a) The fingerprint data shall be captured from the hand used for the enrolment.
- (b) The finger-position shall be identified for each individual fingerprint image as specified by the ANSI/NIST-ITL 1-2011: Update 2015 standard (or newer version).
- (c) A verification based on permutation <sup>(7)</sup> ensures that fingerprints from each of the two sets are matched against each other, regardless of their position in the set. It shall be possible to enable or disable this functionality at central level, impacting all users.

In cases of permanent or temporary physical impossibility to be fingerprinted, the fingerprints shall always be identified as specified by the ANSI/NIST-ITL 1-2011: Update 2015 standard (or newer version) and the EES Interface Control Document

#### 3.2.2. Facial Image

CS-EES shall perform biometric verifications using live captured facial images.

### 3.3. Biometric identifications and searches

#### 3.3.1. For the purposes defined in the Chapter 3 of Regulation (EU) 2017/2226

For purposes other than law enforcement multiple search configurations shall be available. There shall be at least one search configuration fulfilling the requirements defined in the Commission Implementing Decision laying down performance requirements of the Entry/Exit System (EES) <sup>(8)</sup> and further possible search configurations having different accuracy performance specifications (less strict or stricter).

#### Using fingerprints

For purposes other than law enforcement, CS-EES shall perform biometric identifications and searches either with four fingers flat, or with four fingers flat combined with the live captured facial image and only on biometric data which meet the applicable quality thresholds. The biometric identification shall be performed using the fingerprint data with at most one image per finger type (NIST identification 1 to 10).

Fingerprint data from the following fingers shall be used: the index finger, middle finger, ring finger, little finger. Fingerprints from the same hand shall be used, starting with the right hand.

The fingerprint data shall be correctly labelled as to which finger it relates. In cases of permanent or temporary physical impossibility, the fingerprints shall always be identified accordingly as specified by the ANSI/NIST-ITL 1-2011: Update 2015 standard <sup>(9)</sup> (or newer version) and the remaining fingers, if any, shall be used.

<sup>(7)</sup> Permutation is a specific configuration mode of the biometric matching system, which ensures that fingerprints from each of the two sets are matched against each other, regardless of their position in the set. This ensures the elimination of potential human errors in regards to the order of the fingers as well as the highest possible biometric accuracy for verification.

<sup>(8)</sup> C(2019) 1260.

<sup>(9)</sup> Idem.

In the case where identifications are performed in a scope other than border checks, the CS-EES shall be capable to accept rolled fingerprints from authorities with access to EES allowed to use also rolled fingerprints under a different European regulation. If the authority performs an identification with fingers of both hands, the CS-EES shall perform two identifications, one with the fingers of the right hand and one with the fingers of the left hand.

#### Using the facial image

CS-EES shall perform biometric searches using live captured facial image in combination with fingerprint data in accordance with the rules defined in the above section 'Using fingerprints'

#### 3.3.2. For Law Enforcement Purposes

Only for law enforcement purposes, searches may be performed on the basis of the following biometric data:

- fingerprint data sets containing at least one fingerprint;
- rolled and unsegmented slap fingerprint data;
- latent fingerprints;
- facial image in combination with fingerprint data;
- facial image only.

In case of fingerprints searches, permutation<sup>(10)</sup> of hands shall be performed in the scope of law enforcement searches. The use of permutation of hands shall be configurable (enable/disable) on central side, impacting all users.

Identification for law enforcement purposes with fingerprints shall be conducted on all stored fingerprints without account to fingerprint quality, or only on those meeting a certain quality threshold defined in the user search configuration used for the search. The CS-EES shall provide the matching biometric data to the requesting MS together with the indication of the quality of the retrieved fingerprints. In the event of a match with fingerprints of low quality, the law enforcement authority shall be informed that additional verifications are required in order to confirm the match. The thresholds indicating 'low data quality' requiring additional verifications shall be specified in the technical specifications referred to in Article 37(1) of Regulation (EU) 2017/2226.

Biometric searches using only the facial image modality may be executed for the sole purpose of Article 32(2) of Regulation (EU) 2017/2226. In that case the user shall specify the capping value of the number of returned candidate matches. The maximum number of returned files is four hundred. In a first step, the user shall gain access to two hundred best matching files. If necessary, the access to the remaining two hundred files shall be granted by the system, if the user confirms that the initial search did not lead to a successful match.

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<sup>(10)</sup> Permutation of hands allows for comparing fingerprints of one hand with the one of the other hand. This is improving the matching accuracy in the case the sample hand is not known.

**CORRIGENDA****Corrigendum to Amendments to the Customs Convention on the International Transport of goods  
under cover of TIR carnets (TIR Convention 1975)**

*(Official Journal of the European Union L 296 of 22 November 2018)*

On page 1, subtitle:

*for:* 'According to UN Depositary Notification C.N.557.2018.TREATIES — XI.A.16 the following amendments to the TIR Convention enter into force on 3 February 2019 for all Contracting Parties',

*read:* 'According to UN Depositary Notification C.N.556.2018.TREATIES — XI.A.16 the following amendments to the TIR Convention enter into force on 3 February 2019 for all Contracting Parties'.

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ISSN 1977-0677 (electronic edition)  
ISSN 1725-2555 (paper edition)



**Publications Office of the European Union**  
2985 Luxembourg  
LUXEMBOURG

**EN**