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ANNEXES 1 to 2

ANNEXES

Proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country national crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EC) No 767/2008, and amending Regulation (EU) No 1077/2011

{SWD(2016) 114 final}

{SWD(2016) 115 final}

{SWD(2016) 116 final}

ANNEX I

List of international organisations referred to in Article 38(2)

1. UN organisations (such as UNHCR);
2. International Organization for Migration (IOM);
3. The International Committee of the Red Cross.

ANNEX II
Legislative financial statement
to the
proposal for a Regulation establishing an EU Entry Exit system

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LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Revised proposal for a Regulation of the European Parliament and of the Council establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States of the European Union and determining the conditions for access to the EES for law enforcement purposes and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice and Regulation (EC) 767/2008 concerning the Visa Information System.

1.2. Policy area(s) concerned in the ABM/ABB structure¹

Policy area: Area of Home Affairs (title 18)

1.3. Nature of the proposal/initiative

- ☒ The proposal/initiative relates to **a new action**
- ☐ The proposal/initiative relates to **a new action following a pilot project/preparatory action²**
- ☐ The proposal/initiative relates to **the extension of an existing action**
- ☐ The proposal/initiative relates to **an action redirected towards a new action**

1.4. Objective(s)

1.4.1. *The Commission's multiannual strategic objective(s) targeted by the proposal/initiative*

- Border management – saving lives and securing external borders

Managing EU borders more efficiently also implies making better use of the opportunities offered by IT systems and technologies. The "Smart Borders" initiative will increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality.

- Better information exchange

Common high standards of border management, in full respect of the rule of law and of fundamental rights, are essential to preventing cross-border crime and terrorism.

The proposal is part of the continuous development of the Integrated Border Management Strategy of the European Union.

1.4.2. *Specific objective(s) and ABM/ABB activity(ies) concerned*

Specific objective No 2

¹ ABM: activity-based management; ABB: activity-based budgeting.

² As referred to in Article 54(2)(a) or (b) of the Financial Regulation.

Supporting integrated border management including promoting further harmonisation of border management-related measures in accordance with common Union standards and through sharing of information between Member States and between Member States and the Frontex Agency, to ensure, on one hand, a uniform and high level of control and protection of the external borders, including by tackling irregular immigration, and, on the other hand, the smooth crossing of external borders in conformity with the Schengen acquis, while guaranteeing access to international protection for those needing it, in accordance with the obligations contracted by Member States in the field of human rights, including the principle of non-refoulement.

ABM/ABB activity(ies) concerned

Chapter Security and Safeguarding Liberties: Internal Security

1.4.3. Expected result(s) and impact

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The general policy objectives are:

- (1) To improve the management of external borders
- (2) To reduce irregular migration, by addressing the phenomenon of overstaying.
- (3) To contribute to the fight against terrorism and serious crime and ensure a high level of internal security'.

Improved border management can be measured by its effectiveness and efficiency. Effectiveness in border management is achieved if it facilitates the border crossing of legitimate travellers whilst at the same time preventing that travellers not meeting the entry conditions from entering the Schengen area or apprehending them at exit. Efficiency in border management is achieved when the increase of border crossings does not require a similar increase of border guards,

The fulfilment of the second objective is dependent on the first, but also requires utilisation of the Entry Exit System by relevant authorities within the territory of the Schengen area. The EES will contribute to the implementation of the EU policy on the return of illegally staying third country nationals.

The implementation of EES will ensure a better identification of third country nationals and will allow for the detection of people using several identities. This will help to achieve to a certain extent the third policy objective. However, this objective can only be fully realised when access to the entry exit system is granted to law enforcement authorities.

No new policy in new areas will be developed. The proposal is part of the continuous development of the Integrated Border Management Strategy of the European Union.

Specific policy objectives:

The main policy objectives of the Entry Exit System and modifications of Regulation (EU) 2016/399 (the Schengen Borders Code) are to:

- (1) Enhance the efficiency of border checks through monitoring of the rights to authorised stay at entry and exit;
- (2) Identify and detect overstayers (also within the territory) and enable national authorities of the Member States to take appropriate measures including to increase the possibilities for return;
- (3) Free up border control resources from performing checks that can be automated and enable better focus on traveller assessment;
- (4) Facilitate the crossing by third country nationals of EU external borders through self-service systems and semi-automated or automated systems while maintaining the current level of security;
- (5) Enable consulates to have access to information on the lawful use of previous visas;
- (6) Inform third country nationals of the duration of their authorised stay;
- (7) Improve the assessment of the risk of overstay;
- (8) Support evidence based EU migration policy making;

(9) Combat identity fraud.

(10) To contribute to the fight against terrorism and serious crime.

1.4.4. Indicators of results and impact

Specify the indicators for monitoring implementation of the proposal/initiative.

During the development

After the approval of the draft proposal and the adoption of the technical specifications the Entry Exit System (EES), together with a common National Uniform Interface (NUI) (facilitating the integration of MS national infrastructures to the EES) will be developed by eu-LISA.

eu-LISA will also coordinate the integration of the NUI carried out by Member States at national level. A detailed overall governance is defined for the development phase as well as reporting requirements to the European Parliament, the Council and the Commission.

Specific Objective: Ready for operations by the end of 2019³.

Indicator: In order to go live, eu-LISA has notified the successful completion of a comprehensive test of the EES which shall be conducted by the Agency together with the Member States

Once the system is operational

eu-LISA shall ensure that systems are in place to monitor the functioning of the Entry Exit System against objectives. Two years after the system starts operations and every two years thereafter, eu-LISA should submit to the European Parliament, the Council and the Commission a report on the technical functioning of the system including the security thereof. Moreover, two years after the Entry Exit System starts operations and every four years thereafter, the Commission should produce an overall evaluation of the system. This overall evaluation shall include an examination of results achieved against objectives and the impact on fundamental rights and an assessment of the continuing validity of the underlying rationale, the application of the Regulation, the security of the EES and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.

Of particular importance for the evaluation would be the indicators related to the number of overstayers and data on the border crossing time, and for the latter information would be gathered from experiences from the VIS also, as well as an in-depth analysis of the impact of giving access to data for law enforcement purposes. The Commission should submit the report on the evaluation to the European Parliament and the Council.

Specific Objective: enhance the efficiency of border checks through monitoring of the rights to authorised stay at entry and exit and to improve the assessment of the risk of overstay;

Indicator: Processing time at the border crossing points + All third country nationals are informed of the authorised duration of stay Processing time at the border crossing points is measured as the time between the start of reading the data from the

³

Provided that the EES legal framework is adopted by the end of 2016 allowing the start of the development early 2017.

travel document as this is recorded in EES and the moment of recording an authorisation of entry. Durations are recorded permanently and automatically and statistics can be produced on request. Comparison will be made vs a baseline taken before entry into operations.

The indicator that all third country nationals are informed of the authorised duration of stay can be assessed annually by looking at the processes and devices in place. Comparisons will be made between successive years.

Specific Objective: identify and detect overstayers (also within the territory) and to enable national authorities of the Member States to take appropriate measures including to increase the possibilities for return;

Indicator: Number of identified overstayers by category (visa-required/visa-exempt), by type of border (land/sea/air), by Member State, by country of origin/nationality, Number of alerts leading to the apprehension of overstayers Number of identified overstayers result from the analysis of overstay data as recorded by EES. Statistics can be produced at any moment but for evaluation purposes would be produced on an annual basis. Trend can be analysed over successive years.

Number of alerts leading to the apprehension of overstayers to be obtained from the aggregation of Member State data. EES can however provide as a first indicator the number of biometric verification and identification requests triggered by Immigration enforcement services as these can be differentiated from the ones done for other purposes. Trend can be analysed over successive years.

Specific Objective: facilitate the crossing by third country nationals of EU external borders through a semi-automated or automated system.

Indicator: Average duration of border crossing of third-country nationals at EU external borders when using semi-automated or automated systems and process accelerators - implemented in the relevant border crossing points

Specific Objective: support evidence based EU migration policy making.

Indicator: Statistics on border crossing and overstay are available and provide breakdown per citizenship and other characteristics (e.g. traveller's age, gender and border crossing point). Statistics can be produced on request but for evaluation purposes, yearly statistics are used. Comparisons will be made between successive years.

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long term

(1) Border crossing procedures for Third Country Nationals need to give room for more automation in order to cope with a 57% increase of traveller flow by 2025.

(2) Control of authorised period of stay of Third Country Nationals has to be reliable, quick, easy to process and systematic.

(3) Border control process has to report and identify overstayers systematically, easily and in a reliable manner; reliable information on irregular immigration is produced and helps for return.

(4) The fight against international criminality, terrorism and other security threats is reinforced.

1.5.2. *Added value of EU involvement*

No Member State alone is able to cope on its own with irregular immigration. A person may enter the Schengen area at a border crossing point in a Member State where a national register of entry/exit data is used, but exit through a border crossing point where no such system is used. The monitoring of compliance with EU rules on authorised stays can therefore not be done by Member States acting alone. Third country nationals who enter the Schengen area are able to travel freely within it. In an area without internal borders, action against irregular immigration should be undertaken in common. Considering all this the EU is better placed than Member States to take the appropriate measures.

The European Agenda on Migration identifies "border management" as one of the "four pillars to manage migration better". Securing external borders and managing them more efficiently implies making better use of the opportunities offered by IT systems and technologies. The use of the three existing EU large-scale IT systems (SIS, VIS and Eurodac) brings benefits to border management. A new phase will come with the Entry Exit System implementation to increase the efficiency of border crossings, facilitating crossings for the large majority of 'bona fide' third country travellers, whilst at the same time strengthening the fight against irregular migration by creating a record of all cross-border movements by third country nationals, fully respecting proportionality.

The implementation of an EU wide Entry Exit System will result, amongst other things, in the automation of certain tasks and activities related to border controls. This automation will ensure a homogeneous and systematic control of the authorised period of stay of third country nationals.

The use of EES in combination with new possibilities for using self-services systems and automatic or semi-automatic border control solutions will facilitate the work of border guards and help them absorbing the forecasted increase of border crossings. From the traveller's perspective this will result in a facilitation of border crossing, as the waiting time will be reduced and border checks will be faster.

Although Member States may retain their national systems in accordance with security-related national legislation, an EU Entry Exit System would allow Member State authorities to access data on third country nationals who crossed the EU external border in one country and exited via another Schengen country.

Better information on cross border movements of third country nationals at EU level would establish a factual basis to develop and adapt the EU migration policy, including its visa policy. It would help setting priorities for readmission agreements and visa facilitation agreement with third countries. It would contribute to a common understanding of immigration issues and priorities in policy dialogues with countries of origin and transit.

1.5.3. *Lessons learned from similar experiences in the past*

The experience with the development of the second generation Schengen Information System (SIS II) and of the Visa Information System (VIS) showed the following lessons:

1) As a possible safeguard against cost overruns and delays resulting from changing requirements, any new information system in the area of freedom, security and justice, particularly if it involves a large-scale IT system, will not be developed

before the underlying legal instruments setting out its purpose, scope, functions and technical details have been definitively adopted.

2) For SIS II and VIS, Member States National developments could be co-financed under the External Borders Fund (EBF) but this was not compulsory. Hence it was not possible to have an overview of the level of advancement in those who had not foreseen the respective activities in their multi-annual programming or lacked precision in their programming. Therefore, it is now proposed that the Commission reimburse all the integration costs incurred by the MS, so as to be able to monitor the advancement of these developments.

3) With a view to facilitating the general coordination of the implementation, eu-LISA will develop not only the central system but also a common national uniform interface (NUI) to be used by all member states to link their existing national border IT infrastructure.

1.5.4. *Compatibility and possible synergy with other appropriate instruments*

This proposal should be seen as part of the continuous development of the Integrated Border Management Strategy of the European Union, and in particular the Smart Borders Communication⁴, as well as in conjunction with the ISF borders⁵, as part of the MFF and the establishing Regulation of eu-LISA⁶. The legislative financial statement attached to the Commission proposal for the Agency⁷ covers the costs for the existing IT systems EURODAC, SIS II, VIS but not for the future border management systems that are not yet entrusted to the Agency via a legal framework. Therefore, the ISF borders Regulation foresees an amount of 791 mio € under Article 5 developing IT systems, based on existing and/or new systems, supporting the migration flow across the external borders. Within the Commission DG HOME is the Directorate General responsible for the establishment of an area of free movement in which persons can cross internal borders without being submitted to border checks and external borders are controlled and managed coherently at the EU level. The system has the following synergies with the Visa Information System:

a) for visa holders, the Biometric Matching System will also be used for the purpose of Entry/Exit;

b) the Entry/Exit System will complement the VIS⁸. The VIS contains only visa applications and issued visas, whereas for visa holders the EES will store also concrete entry and exit data related to the issued visas.

⁴ Communication from the Commission to the European Parliament and the Council- Smart Borders – options and the way ahead (COM(2011)680).

⁵ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC

⁶ Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice. Article 1.3 "The Agency may also be made responsible for the preparation, development and operational management of large-scale IT systems in the area of freedom, security and justice other than those referred to in paragraph 2, only if so provided by relevant legislative instruments..."

⁷ COM(2010)93 of 19 March 2010.

⁸ Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences and Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008

1.6. Duration and financial impact

- ☐ Proposal/initiative of **limited duration**
 - ☐ Proposal/initiative in effect from [DD/MM]YYYY to [DD/MM]YYYY
 - ☐ Financial impact from YYYY to YYYY
- ☒ Proposal/initiative of **unlimited duration**
 - Preparatory period 2016
 - Implementation with a start-up period from 2017 to 2019,
 - followed by full-scale operation in 2020.

1.7. Management mode(s) planned⁹

- ☒ **Direct management** by the Commission
 - ☒ by its departments, including by its staff in the Union delegations;
 - ☐ by the executive agencies
- ☒ **Shared management** with the Member States
- ☒ **Indirect management** by entrusting budget implementation tasks to:
 - ☐ third countries or the bodies they have designated;
 - ☐ international organisations and their agencies (to be specified);
 - ☐ the EIB and the European Investment Fund;
 - ☒ bodies referred to in Articles 208 and 209 of the Financial Regulation;
 - ☐ public law bodies;
 - ☐ bodies governed by private law with a public service mission to the extent that they provide adequate financial guarantees;
 - ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that provide adequate financial guarantees;
 - ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.
 - *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

The ISF borders Regulation is the financial instrument where the budget for the implementation of the smart borders package has been included.

It provides in Article 5 that 791 million EUR shall be implemented through a programme for setting up IT systems supporting the management of migration flows across the external border under the conditions laid down in Article 15.

Regarding the methods of implementation, the ISF Borders Regulation provides as follows:

concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation)

⁹ Details of management modes and references to the Financial Regulation may be found on the BudgWeb site:

<https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx>

Article 5(4) last paragraph provides that *‘The method(s) of implementation of the budget for the programme on the development of IT systems, based on existing and/or new IT systems shall be set out in the relevant Union legislative acts subject to their adoption’*.

Article 15 provides as follows: *‘The programme on the development of IT systems based on existing and/or new IT systems shall be implemented subject to adoption of the Union legislative acts defining those systems and their communication infrastructure with the aim in particular of improving the management and control of travel flows at the external borders by reinforcing checks while speeding up border crossings for regular travellers. Where appropriate, synergies with existing IT systems shall be sought in order to avoid double spending.*

The breakdown of the amount referred to in point b) of Article 5(5) shall be made either in the relevant Union legislative acts or following the adoption of those legislative acts through a delegated act in accordance with Article 17.’

The legislator clearly decided that the method of implementation of the budget for Smart Borders is not defined in the ISF borders and will have to be defined in the "relevant Union legislative acts" i.e. the Regulations on EES and RTP. Regarding the breakdown of the 791 million, the legislator followed the same rationale (to be included in the "relevant Union legislative acts") but left open the possibility to set this breakdown through a delegated act following the adoption of the smart borders regulations. This means that whereas the method of implementation should be defined in the relevant Union legislative acts, the breakdown of costs could be defined afterwards through a delegated act, which would give certain flexibility in case of modification of this breakdown.

The methods of implementation envisaged in the proposal are the following:

1) Indirect management: During the 2017-2019 period the development of the EES will be executed by eu-LISA. This will cover the development part of all strands of the project, i.e. Central System, National Uniform Interface (NUI) and the communication infrastructure between the central system and the NUI. During the period of operations starting in 2020 eu-LISA will execute all operational activities linked to the maintenance of the central system and the communication infrastructure.

As of 2017, it is envisaged to transfer a total amount of 288 Mio € from the ISF to the eu-LISA budget line to cover these activities.

2) Direct management: During the development phase (2017-2019) the Commission will spend a total amount of 120 Mio € to manage the grants to Member States for the integration of the NUI

3) Shared management: During the development phase (2017-2019) the Commission will spend a total amount of 52,7 mio € for the expenses related to the operations in the Member States. During the operations starting in 2020 an amount of 19,7 mio € has been reserved to ensure the necessary staff for 24h/24h shift in the Member States. This will need a revision of the national programmes under the ISF-Borders & Visas to include new specific actions. Such inclusion of an additional specific action will be made through a delegated act once the smart borders regulation will be adopted.

The remaining budget of the Smart Borders line (791 Mio € initial allocation minus 480 Mio € Smart Borders budget = 311 Mio €) will be used as defined in Article 5(5) b of Regulation (EU) No 515/2014 (ISF-B).

Blocks	Development phase (2017-2019)	Operations phase (2020)	Management mode	Actor
Network	X	X	Indirect	Eu-LISA
Development and Maintenance Central System	X	X	Indirect	eu-LISA
Development National Uniform Interface (NUI)	X		Indirect	eu-LISA
Integration NUI and related administration during development	X	X	Direct / Shared	COM
Maintenance National Systems		X	Shared	COM

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

The rules on monitoring and evaluation of the Entry Exit System (EES) are foreseen in Article 64 of the proposal:

1. eu-LISA shall ensure that procedures are in place to monitor the development of the EES against objectives relating to planning and costs and to monitor the functioning of the EES against objectives relating to the technical output, cost-effectiveness, security and quality of service.
2. Six months after the entry into force of this Regulation and every six months thereafter during the development phase of the EES, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the communication infrastructure between the Central System and the Uniform Interfaces. Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives in particular relating to planning and costs, were met as well as justifying any divergences.
3. For the purposes of technical maintenance, eu-LISA shall have access to the necessary information relating to the data processing operations performed in the EES.
4. Two years after the start of operations of the EES and every two years thereafter, eu-LISA shall submit to the European Parliament, the Council and the Commission a report on the technical functioning of EES, including the security thereof.
5. Three years after the EES is brought into operation and every four years thereafter, the Commission shall produce an overall evaluation of the EES. This overall evaluation shall include an examination of results achieved against objectives and the impact on fundamental rights, and assessing the continuing validity of the underlying rationale, the application of the Regulation, the security of the EES and any implications on future operations, and shall make any necessary recommendations. The Commission shall transmit the evaluation report to the European Parliament and the Council.
6. The Member States and Europol shall provide eu-LISA and the Commission with the information necessary to draft the reports referred to in paragraphs 4 and 5 according to the quantitative indicators predefined by the Commission and/or eu-LISA . This information shall not jeopardise working methods or include information that reveals sources, staff members or investigations of the designated authorities.
7. eu-LISA shall provide the Commission with the information necessary to produce the overall evaluations referred to in paragraph 5.
8. While respecting the provisions of national law on the publication of sensitive information, each Member State and Europol shall prepare annual reports on the effectiveness of access to EES data for law enforcement purposes containing information and statistics on:
 - the exact purpose of the consultation (whether for identification or for entry/exit records) including the type of terrorist or serious criminal offence,

- reasonable grounds given for the substantiated suspicion that the suspect, perpetrator or victim is covered by this Regulation
- the reasonable grounds given not to conduct consultation of other Member States' automated fingerprint identification systems under Decision 2008/615/JHA in accordance with Article 29(2)b).
- the number of requests for access to the EES for law enforcement purposes
- the number and type of cases which have ended in successful identifications and
- the need and use made of the exceptional case of urgency including those cases where that urgency was not accepted by the ex-post verification carried out by the Central Access Point;

Member States and Europol annual reports shall be transmitted to the Commission by 30 June of the subsequent year.

2.2. Management and control system

2.2.1. Risk(s) identified

1) Difficulties with the technical development of the system

Member States have technically different national IT systems. Furthermore, border control processes may differ according to the local circumstances (available space at the border crossing point, travel flows, etc.). The EES needs to be integrated into the national IT architecture and the national border control processes. Additionally, the integration of the National Uniform Interfaces (NUIs) needs to be fully aligned with central requirements. There are two main risks identified in this area:

- a) The risk that technical and legal aspects of the EES may be implemented in different ways by different Member States, due to insufficient coordination between the central and national sides. The NUI concept envisaged should mitigate this risk.
- b) The risk of inconsistency in how this future system is used depending on how Member States implement the EES into the existing border control processes.

2) Difficulties with the timely development

From the experience gained during the development of the VIS and the SIS II, it can be anticipated that a crucial factor for a successful implementation of the EES will be the timely development of the system by an external contractor. As a center of excellence in the field of development and management of large-scale IT systems, eu-LISA will also be responsible for the award and management of contracts, in particular for sub-contracting the development of the system. There are several risks related to the use of an external contractor for this development work:

- a) in particular, the risk that the contractor fails to allocate sufficient resources to the project or that it designs and develops a system that is not state-of-the-art;
- b) the risk that administrative techniques and methods to handle large-scale IT projects are not fully respected as a way of reducing costs by the contractor;
- c) finally, the risk of the contractor facing financial difficulties for reasons external to this project cannot be entirely excluded.

2.2.2. *Information concerning the internal control system set up*

The Agency is meant to be a center of excellence in the field of development and management of large-scale IT systems. It shall execute the activities linked to the development and the operations of the central part of the system including uniform interfaces in the Member States and the networks. This will allow to avoid most of the drawbacks that the Commission met when developing the SIS II and VIS.

During the development phase (2017-2019), all development activities will be executed by eu-LISA. This will cover the development part of all strands of the project, i.e. Central System, National Uniform Interface (NUI), Networks and Office space in the Member States. The costs for integration of the NUI as well as those related to the administration of the systems in Member States during the development will be managed by the Commission via grants.

During the operational phase starting in 2020, eu-LISA will be responsible for the technical and financial management of the central system, notably the award and management of contracts whereas the Commission will manage the grants to Member States for the expenses for national systems maintenance via the ISF/Borders (national programs).

In order to avoid delays at national level, an efficient governance between all stakeholders is to be foreseen prior to the start of the development. The Commission has proposed in the draft Regulation that an Advisory Group composed of Member States national experts shall provide the Agency with the expertise related to the EES.

2.2.3. *Estimate of the costs and benefits of the controls and assessment of the expected level of risk of error*

N/A

2.3. **Measures to prevent fraud and irregularities**

Specify existing or envisaged prevention and protection measures.

The measures foreseen to combat fraud are laid down in Article 35 of Regulation (EU) 1077/2011 which provides as follows:

1. In order to combat fraud, corruption and other unlawful activities, Regulation (EC) No 1073/1999 shall apply.
2. The Agency shall accede to the Interinstitutional Agreement concerning internal investigations by the European Anti-Fraud Office (OLAF) and shall issue, without delay, the appropriate provisions applicable to all the employees of the Agency.
3. The decisions concerning funding and the implementing agreements and instruments resulting from them shall explicitly stipulate that the Court of Auditors and OLAF may carry out, if necessary, on-the-spot checks among the recipients of the Agency's funding and the agents responsible for allocating it.

In accordance with this provision, the decision of the Management Board of the European Agency for the operational management of large-scale IT systems in the

area of freedom, security and justice concerning the terms and conditions for internal investigation in relation to the prevention of fraud, corruption and any illegal activity detrimental to the Union's interests was adopted on 28 June 2012.

DG HOME's fraud prevention and detection strategy will apply.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL/INITIATIVE

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Heading 3 - Security and Citizenship	Diff./Non-diff. ¹⁰	from EFTA countries ¹¹	from candidate countries ¹²	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
		Diff.	NO	NO	YES	NO
3	18.020101 – Support of border management and a common visa policy to facilitate legitimate travel	Diff	NO	NO	YES	NO
3	18.020103 – Setting up new IT systems to support the management of migration flows across the external borders of the Union	Diff	NO	NO	YES	NO
3	18.0207 – European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (eu-LISA)	Diff	NO	NO	YES	NO

New budget lines requested

In order of multiannual financial framework headings and budget lines.

¹⁰ Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.

¹¹ EFTA: European Free Trade Association.

¹² Candidate countries and, where applicable, potential candidate countries from the Western Balkans.

3.2. Estimated impact on expenditure

[Summary of estimated impact on expenditure

EUR million (to three decimal places)

Heading of multiannual financial framework	3	Security and Citizenship
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DG: HOME			Year 2017	Year 2018	Year 2019	Year 2020	Year 2021			TOTAL
• Operational appropriations										
18.02.01.03 (Smart Borders)	Commitments	(1)	40,000	40,000	40,000					120,000
	Payments	(2)	28,000	28,000	28,000	36,000				120,000
18.020101 (Borders & Visa)	Commitments		16,236	16,236	20,196	19,710				72,378
	Payments		11,365	11,365	14,137	13,797	21,713			72,378
Appropriations of an administrative nature financed from the envelope of specific programmes ¹³										
Number of budget line		(3)								
TOTAL appropriations for DG HOME	Commitments	=1+1a +3	56,236	56,236	60,196	19,710				192,378
	Payments	=2+2a +3	39,365	39,365	42,137	49,797	21,713			192,378

¹³ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

Eu-LISA			Year 2017	Year 2018	Year 2019	Year 2020	Year 2021			TOTAL
Title 1:	Commitments	(1)	1,876	1,876	1,876	4,221				9,849
	Payments	(2)	1,876	1,876	1,876	4,221				9,849
Title 2:	Commitments	(1a)								
	Payments	(2a)								
Title 3:	Commitments	(3a)	54,569	57,513	144,326	21,606				278,014
	Payments	(3b)	38,199	40,259	101,028	15,124	83,404			278,014
TOTAL appropriations for eu-LISA	Commitments	=1+1a +3a	56,445	59,389	146,202	25,827				287,863
	Payments	=2+2a +3b	40,074	42,135	102,904	19,345				287,863

Heading of multiannual financial framework	5	‘Administrative expenditure’
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EUR million (to three decimal places)

		Year 2017	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
DG HOME									
• Human resources Number of budget line 18.01		0,402	0,402	0,402	0				1,206
• Other administrative expenditure									
TOTAL DG HOME	Appropriations	0,402	0,402	0,402	0				1,206

TOTAL appropriations under HEADING 5 of the multiannual financial framework	(Total commitments = Total payments)	0,402	0,402	0,402	0				1,206
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EUR million (to three decimal places)

		Year N ¹⁴	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
TOTAL appropriations under HEADINGS 1 to 5 of the multiannual financial framework	Commitments	112,653	115,597	206,517	45,474				480,242
	Payments	112,653	115,597	206,517	45,474				480,242

¹⁴

Year N is the year in which implementation of the proposal/initiative starts.

3.2.1. Estimated impact on operational appropriations

3.2.1.1. Estimated impact on eu-LISA's appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs Eu-LISA ↓			Year 2017		Year 2018		Year 2019		Year 2020		Enter as many years as necessary to show the duration of the impact (see point 1.6)						TOTAL	
	OUTPUTS																	
	Type 15	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ¹⁶ Development Central System																		
- Output	Contractor		32,650		52,650		55,118		0									140,418
- Output	Software		8,051		0		46,560		3,555									58,166
- Output	Hardware		4,754		0		22,853		0									27,607
- Output	Administration		50		50		1,682		0									1,782
- Output	Other (office)		219		0		0		0									0,219
Subtotal for specific objective No 1				45,724		52,700		126,213		3,555								228,192
SPECIFIC OBJECTIVE No 2 Maintenance Central System																		
- Output	Contractor		0		0		1,734		1,748									3,482

¹⁵ Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

¹⁶ As described in point 1.4.2. 'Specific objective(s)...'

- Output	Software		1,343		1,343		9,102		9,939							21,726
- Output	Hardware		569		569		2,925		3,586							7,648
- Output	Administration		0		0		0		50							50
- Output	Other (office)		0		90		90		90							271
Subtotal for specific objective No 2			1,912		2,002		13,851		15,413							33,178
SPECIFIC OBJECTIVE No 3 Network			6,118		1,995		2,520		2,310							12,944
SPECIFIC OBJECTIVE No 4 Meetings/Training			816		816		1,741		327							3,700
TOTAL COST eu-LISA			54,570		57,513		144,325		21,605							278,013

3.2.1.2. Estimated impact on DG HOME appropriations

- ☐ The proposal/initiative does not require the use of operational appropriations
- ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs			Year 2017	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
	OUTPUTS							

DG HOME	Type ¹⁷	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1 ¹⁸ Development Member States																		
- Output	Grants to MS for NUI integration		40,000		40,000		40,000											120,000
- Output	Support to MS for system administration		16,236		16,236		20,196											52,668
Subtotal for specific objective No 1				56,236		56,236		60,196										172,668
SPECIFIC OBJECTIVE No 2 Maintenance National Systems																		
- Output	Administration								19,710									19,710
Subtotal for specific objective No 2									19,710									19,710
TOTAL COST DG HOME				56,236		56,236		60,196		19,710								192,378

¹⁷

Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

¹⁸

As described in point 1.4.2. 'Specific objective(s)...'

3.2.2. Estimated impact on eu-LISA's human resources

3.2.2.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2017	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)			TOTAL
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Officials (AD Grades)								
Officials (AST grades)								
Contract staff								
Temporary staff	1,876	1,876	1,876	4,221				9,849
Seconded National Experts								

TOTAL	1,876	1,876	1,876	4,221				9,849
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Recruitment is planned for January 2017. All staff must be available as of early 2017 in order to allow starting the three year development period in due time with a view of ensuring an entry into operations of the EES in 2020. The resources will be devoted to project and contract management as well as the development and testing of the system. More details are provided in the annex.

Posts	2017	2018	2019	2020
Baseline Communication ¹⁹	115	113	113	113
Additional posts	14	14	14	14 *
Total	129	127	127	127

* 14 posts are added for the development of the system to the establishment plan of eu-LISA. The number of posts for 2020 and the subsequent years will be re-assessed in the course of the preparation of the Draft EU budget for 2020, taking into consideration the specific needs for the operation of the system 24 hours a day and 7 days a week.

3.2.3. Estimated impact on appropriations of an administrative nature

3.2.3.1. Summary

- ☐ The proposal/initiative does not require the use of appropriations of an administrative nature
- ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year 2017 ²⁰	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)	TOTAL
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HEADING 5 of the multiannual financial framework								
Human resources DG HOME	0,402	0,402	0,402	0				1,206
Other administrative expenditure								
Subtotal HEADING 5 of the multiannual financial framework	0,402	0,402	0,402	0				1,206

Outside HEADING 5²¹ of the multiannual financial framework								
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¹⁹ COM(2013) 519 final: Communication from the Commission to the European Parliament and the Council – Programming of human and financial resources for decentralised agencies 2014-2020.

²⁰ Year N is the year in which implementation of the proposal/initiative starts.

Human resources								
Other expenditure of an administrative nature								
Subtotal outside HEADING 5 of the multiannual financial framework								

TOTAL	0,402	0,402	0,402	0				1,206
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The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

²¹ Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

3.2.3.2. Estimated requirements of human resources

- ☐ The proposal/initiative does not require the use of human resources.
- ☒ The proposal/initiative requires the use of human resources, as explained below:

Estimate to be expressed in full time equivalent units

	Year 2017	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)
• Establishment plan posts (officials and temporary staff)					
18 01 01 01 (Headquarters and Commission's Representation Offices) DG HOME	3	3	3	0	
XX 01 01 02 (Delegations)					
XX 01 05 01 (Indirect research)					
10 01 05 01 (Direct research)					
• External staff (in Full Time Equivalent unit: FTE)²²					
XX 01 02 02 (AC, AL, END, INT and JED in the delegations)					
XX 01 04 yy ²³	- at Headquarters				
	- in Delegations				
XX 01 05 02 (AC, END, INT - Indirect research)					
10 01 05 02 (AC, END, INT - Direct research)					
Other budget lines (specify)					
TOTAL	3	3	3	0	

18 is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff DG HOME	The staff will deal with the management of the grants to Member States under the annual programmes of the ISF-Borders fund.
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²² AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JED= Junior Experts in Delegations.

²³ Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. Compatibility with the current multiannual financial framework

- ☒ The proposal/initiative is compatible the current multiannual financial framework.
- ☐ The proposal/initiative will entail reprogramming of the relevant heading in the multiannual financial framework.
- ☐ The proposal/initiative requires application of the flexibility instrument or revision of the multiannual financial framework.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

- ☒ The proposal/initiative does not provide for co-financing by third parties.
- The proposal/initiative provides for the co-financing estimated below:

Appropriations in EUR million (to three decimal places)

	Year N	Year N+1	Year N+2	Year N+3	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

- ☐ The proposal/initiative has no financial impact on revenue.
- ☒ The proposal/initiative has the following financial impact:
 - ☐ on own resources
 - ☒ on miscellaneous revenue

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative ²⁴						
		Year 2017	Year 2018	Year 2019	Year 2020	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article 6313		4,798	6,983	8,932	6,315			

For miscellaneous 'assigned' revenue, specify the budget expenditure line(s) affected.

18.02.01.03 (Smart Borders) and 18.0207 (eu-LISA)

Specify the method for calculating the impact on revenue.

The budget shall include a contribution from countries associated with the implementation, application and development of the Schengen acquis and the Eurodac related measures as laid down in the respective agreements. The estimates provided are purely indicative and are based on recent calculations for revenues for the implementation of the Schengen acquis from the States that currently contribute (Iceland, Norway and Switzerland) to the general budget of the European Union (consumed payments) an annual sum for the relevant financial year, calculated in accordance with its gross domestic product as a percentage of the gross domestic product of all the participating States. The calculation is based on June 2015 figures from EUROSTAT which are subject to considerable variation depending on the economic situation of the participating States.

²⁴

As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 25 % for collection costs.