

Schengen Borders Code: use of the Entry/Exit System (EES)

2016/0105(COD) - 25/10/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 496 votes to 137 with 32 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/399 (the Schengen Borders Code) as regards the use of the Entry/Exit System.

The European Parliaments position adopted at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Entry conditions for third-country nationals: it is proposed to amend the entry conditions applicable to third-country nations by including an obligation to provide biometric data when such data need to be provided by third-country nationals for the purpose of border checks. Where a third-country national refuses to provide biometric data for the creation of his or her individual file or for the carrying out of border checks, a refusal of entry decision should be adopted.

The Schengen Borders Code sets out the entry conditions for third-country nationals for intended stays on the territory of the Member States of a duration of no more than 90 days in any 180-day period, which entails considering the 180-day period preceding each day of stay.

The amended text states that the period of 90 days in any 180-day period shall be calculated as a single period for the Member States operating the EES. That period shall be calculated separately for each of the Member States that do not operate the EES.

Border checks on persons: with regard to passports and travel containing an electronic storage medium (chip), the authenticity and integrity of the chip data shall be confirmed using the complete valid certificate chain.

The amended text provides for the verification of the identity and the nationality of the third-country national and of the authenticity and validity of the travel document for crossing the border, including by consulting the relevant databases, in particular: (i) the SIS (Schengen Information System); (ii) Interpol's SLTD (stolen and lost travel documents) database; (iii) national databases containing information on stolen, misappropriated, lost and invalidated travel documents.

Self-service systems and electronic gates: where a person is granted access to a national facilitation programme established by a Member State, the border checks carried out through a self-service system on entry may omit the examination of certain aspects.

Furthermore, Member States must allow for the use of self-service systems, e-gates, or both, for border crossings by: (i) Union citizens, (ii) citizens of a European Free Trade Association State of the European Economic Area (iii) citizens of Switzerland and (iv) third-country nationals whose border crossing is not subject to a registration in the EES.

Standards for automated border control systems: automated border control systems shall, to the extent possible, be designed in such a way that all persons, with the exception of children under 12 years of age, can use them. They shall also be designed in a way that fully respects human dignity, in particular in cases involving vulnerable persons. Where Member States decide to use automated border control systems, they shall ensure the presence of a sufficient number of staff to assist persons with the use of such systems.

National facilitation programmes: first access to the national facilitation programme shall be granted for a maximum of one year. Access may be extended for a maximum of a further five years or until the end of the validity period of the travel document or any issued multiple-entry visas, long-stay visas and residence permits, whichever is shorter.

Border guards may carry out the verification of the third-country national benefiting from the national facilitation programme on entry and on exit without comparing biometrics electronically but by comparing the facial image taken from the electronic storage medium (chip) and the facial image in the third-country national's individual EES file with that third-country national's face. Full verification shall be carried out at random and on the basis of a risk analysis.

Transitional measures for the Member States not yet operating the EES: the Member States which do not meet the conditions set out in [the regulation](#) on the creation of an entry/exit system (EES) at the date of the start of operations of the EES should continue to systematically stamp, on entry and exit, the travel documents of third-country nationals admitted for a short stay. Those Member States should examine the entry and exit stamps on the travel document of the third-country national concerned in order to verify, by comparing the dates of entry and exit, that the person has not exceeded the maximum duration of authorised stay on the territory of the Member State concerned.