

Entry/Exit System: temporary derogation from certain provisions as regards a progressive start of operations of the Entry/Exit System

2024/0315(COD) - 04/12/2024 - Legislative proposal

PURPOSE: to lay down rules on a progressive start of operations of the Entry/Exit System (EES) at the borders of the Member States at which the EES is operated.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the Entry/Exit System (EES) is a crucial component of the border management of the Schengen area, laid down in Regulation 2017/2226 (EES Regulation). As a centralised database, the EES registers entries, exits and refusals of entry of third-country nationals crossing the external borders of 29 Schengen Member States for a short stay. The system will collect biometric data, such as facial images and fingerprints of third country nationals crossing the external borders. The EES will grant Schengen Member States real-time access to third-country nationals' personal data, travel history and information on whether they comply with the authorised short-stay period in the Schengen area. As a result, the EES will significantly reduce the likelihood of identity fraud and overstay, ultimately strengthening the security of the Schengen area.

Member States, eu-LISA and the Commission have made significant efforts to launch the EES before the end of 2024. However, at the Home Affairs Council on 10 October 2024, the Commission informed that it had not yet received the required declarations of readiness from all Member States, which is a legal requirement to be able to start the operation of the system.

CONTENT: the current EES Regulation only allows for a full start of operations, and it does not offer flexibility to Member States to address remaining challenges while already operating the EES. The Commission has therefore put forward this proposal for a **progressive start of operations** of the EES over a period of six months. It offers flexibility to Member States to roll out the EES according to their capabilities while respecting the minimum thresholds established by the EES Regulation. At the same time, those Member States who are ready to start using the EES fully from day one will be able to do so.

The general objective of the proposal is to facilitate the operationalisation of the EES Regulation, thereby enabling Member States to achieve the system's objectives set out in the EES Regulation in a timely and efficient manner.

The proposal lays down the following provisions:

Phased deployment

It is proposed that Member States will progressively start the EES operations, beginning with a minimum registration of **10% of estimated border crossings** and reaching full registration of all individuals by the end of the period of the progressive start of operations. Refusals of entry will be registered at the border

crossing points at which the EES operates. Member States will have the possibility to accelerate implementation at national level or start operating the EES fully. Europol will also start using the EES from the first day of the progressive start of operations.

Roll-out plans, monitoring and reporting

The details of a progressive entry into operation at central and national level will be set out in the roll-out plans of eu-LISA and Member States, upon consultation with the Commission. Member States will provide monthly progress reports to the Commission and eu-LISA.

Temporary rules derogating from the EES Regulation and the Schengen Borders Code

Mandatory stamping of travel documents for all individuals falling in the scope of the EES will remain in place until the end of the period of the progressive start of operations. Where the EES is deployed, Member States will record travellers' data from their travel documents. Member States may record biometric data progressively.

Access to the EES data

Relevant authorities should consider that the data registered in the EES during the progressive start of operations of the EES may be incomplete. Data registered in the EES during the period of the progressive start of operations will not be used by the European Border and Coast Guard Agency for risk analysis and vulnerability assessments. The use of several EES functionalities requiring the uniform application of the EES in all Member States will be suspended during the progressive start of operations. Carriers may only start using the web service 90 days after the start of the period of the progressive start of operations.

Suspension of the EES operations

In **exceptional cases** of failure of the EES Central System, national systems or communication infrastructure, or excessive waiting times at borders, Member States can decide not to record any data (full suspension) or not to record biometric data (partial suspension). Partial suspension will be possible after the end of the progressive start of operations for a limited period in exceptional circumstances leading to traffic of such intensity that the waiting times at borders become excessive.