FRA EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS

# ENTRY/EXIT SYSTEM:

# FUNDAMENTAL RIGHTS GUIDANCE FOR BORDER GUARDS

REPORT

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# The entry/exit system and fundamental rights

The entry/exit system (EES) is a large-scale information system of the European Union (EU) to register the entry and exit of short-stay non-EU nationals coming to the Schengen area. The EES Regulation (Regulation (EU) 2017/2226, as amended) is the legal basis for this system, which captures and stores personal data, including facial images and fingerprints. Designed to strengthen border management and improve the efficiency of migration control, the EES replaces manual stamping of passports at borders with automated data collection and verification.

The European Commission estimates that the data from approximately 300 million border crossings by non-EU nationals will be recorded in the EES per year – noting that this figure refers to individual crossings, not people. Under Commission Implementing Decision (EU) 2025/1544, the EES will start to operate on 12 October 2025. Pursuant to Regulation (EU) 2025/1534, not all functions of the EES will be implemented during the first six-month progressive start period.

While the EES promises operational benefits, its implementation also carries significant implications for the fundamental rights of non-EU nationals. This requires mitigating measures, for example reducing hardship for vulnerable passengers. The system touches on a broad range of rights enshrined in the European Union Charter of Fundamental Rights (the Charter), including: human dignity (Article 1), respect for private and family life (Article 7), the protection of personal data (Article 8), the prohibition of discrimination (Article 21), and specific protection for children, older people and people with disabilities (Articles 24–26). It may also affect the right to asylum (Article 18) and the principle of *non-refoulement* (Article 19).

Exercising the right to an effective remedy (Article 47) against incorrect decisions based on EES records is also a central consideration, given that biometric matching errors may occur despite safeguards. The rate of false results will never be zero. For a system that processes hundreds of millions of records, even a very small error rate affects a considerable number of people.

Charter rights, which are included in the European Convention on Human Rights (ECHR) and its protocols, must be interpreted in the same way as the equivalent rights in the ECHR, in accordance with Article 52(3) of the Charter. This means that the case law of the European Court of Human Rights (ECtHR) must be duly taken into account when determining the meaning and content of rights set forth in both the Charter and the ECHR. This is the case for many Charter rights.

The EES Regulation itself contains numerous fundamental rights safeguards, which need to be implemented when operating the system. For non-EU nationals, decisions based on EES data must be transparent and fair. Non-EU nationals with specific needs, such as children, should not face an additional burden (Article 10), and effective safeguards must be in place to ensure data accuracy (Articles 35 and 39), access to information (Article 50) and the right to seek correction or redress (Article 52). These safeguards do not only fulfil legal obligations, they also enhance the reliability and functionality of the system itself.

The EES is one of six large-scale information systems that the EU is in the process of setting up to support asylum, border and immigration management, policing and internal security. These systems will become interoperable, meaning that responsible authorities can access or view certain data across the systems, for example to establish the identity of a non-EU national. Gaps in the reliability and accuracy of data in the EES may thus lead to adverse impacts on individuals in other procedures, such as asylum or immigration procedures, more generally. For an overview of the fundamental rights risks and opportunities of the EU's large-scale IT systems, the reader can consult the online information platform on the EU's IT systems for migration and policing, and their interoperability, which the European Union Agency for Fundamental Rights (FRA) published in 2024. The platform informs non-EU nationals, lawyers and civil society organisations about the main features of the EU's IT systems and provides guidance on how to help data subjects exercise their rights.

# Guidance from the European Union Agency for Fundamental Rights

Based on research carried out between May and September 2024, FRA compiled fundamental rights considerations for the operation of the EES that were consulted by practitioners and experts at a workshop in September 2024 and at training events organised by the European Border and Coast Guard Agency.

This guidance is for border guards in EU Member States who work at the operational level. It primarily addresses staff working at first-line checks. It aims to support a fundamental-rights-compliant operation of the EES.

The guidance for border guards focuses on four operational areas that were identified in the research as the most relevant for the protection of fundamental rights:

- informing non-EU nationals;
- processing personal data;
- supporting non-EU nationals with specific needs;
- treating overstayers.

Safeguards in other EU legal instruments, such as the Schengen Borders Code, remain applicable. Nothing in this guidance restricts or adversely affects applicable fundamental rights standards and safeguards.

The guidance complements FRA's 2020 guidance Border controls and fundamental rights at external land borders, which applies to border management tasks in general and does not refer to EES-related tasks.

This guidance is published together with a separate guidance publication for EES managers and senior border management staff at border crossing points (BCPs), The Entry/Exit System: Fundamental rights guidance for managers, 2025. It includes selected key findings from the research.

# Research methodology

FRA carried out research and contributed fundamental rights expertise to training activities on the EES as the system will process personal data, including sensitive biometric data, of hundreds of millions of non-EU nationals each year.

FRA's research aimed at collecting the experiences and expectations of practitioners and experts on matters which are relevant for the EES roll-out. The research covered the collection and processing of biometric data at borders, for example through automated border control gates, the provision of information to non-EU nationals or the management of queues in settings with limited space.

Between May and September 2024, FRA collected experiences from border guards, national authorities, supervisory authorities and fundamental rights experts. Field research took place in six EU Member States, covering nine air, sea and land border BCPs with relevant experience in processing biometric data at borders. More specifically, the following research tasks were carried out.

- 30 national-level authorities and experts were interviewed, five in each of the following Member States: Bulgaria, Estonia, France, Germany, Italy and Poland.
- At nine BCPs,61 shift leaders and 25 other stakeholders such as airport operators, transport companies and non-governmental organisations were interviewed. At these BCPs, the border guards offered a guided tour to the researchers, which enabled some participatory observation.
- At nine BCPs, covering 177 border guards in total a survey was carried out.
- FRA staff visited five BCPs (Frankfurt and Vienna airports, a Eurostar terminal in France and the ports of Marseille and Bari), observing and discussing the preparations for the EES with respective Member State authorities.

The research took place at the following BCPs:

- Bulgaria– Kapitan Andreevo (road BCP) and Sofia airport;
- Estonia– Narva (land BCP);
- France– the port of Marseille and the Eurostar BCP;
- Italy– Rome Fiumicino airport and the port of Bari; and
- Poland– Medyka (road BCP) and Warsaw airport.

The research findings were the starting point for compiling this FRA guidance.

# 1. Inform non-EU nationals in a dignified and respectful manner

## 1.1. Guidance

- **Guidance 1.1:** Be aware of the information on the EES that non-EU nationals must receive upon entry into the Schengen area.
- **Guidance 1.2:** Attend regular training on the EES, its fundamental rights implications and on communication skills.
- **Guidance 1.3:** Verify that the standard template with information on the EES and the contact details of the controller, the data protection officer and the supervisory authorities is visibly displayed and always available in sufficient copies.
- **Guidance 1.4: S**ystematically check whether non-EU nationals understand which personal data are processed and why, who will access and use the data and how long their data will be stored. Check whether they understand that they may access and request corrections to their data.
- **Guidance 1.5:** Be friendly and offer support when non-EU nationals appear to be struggling to understand what information they need to provide and why.
- **Guidance 1.6:** Respond to questionsclearly and politely using language that non-EU nationals understand.
- **Guidance 1.7:** Seek support from cultural mediators or other support staff to facilitate communication or to identify and refer vulnerable people, where needed.
- **Guidance 1.8:** Provide clear and complete replies to questions on how to have data rectified, corrected or erased and who to contact regarding complaints. Call a supervisor, if necessary.

## 1.2. Legal references

- Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30November 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) No767/2008 and (EU) No1077/2011, OJ L327, 9.12.2017, pp.20–82, Articles38(5) and 50.

# 2. Process personal data respecting privacy and dignity

## 2.1. Guidance

- **Guidance 2.1:** Limit interferences with privacy when capturing biometric data, for example by applying protective screens or shielding non-EU nationals requiring specific assistance, if appropriate.
- **Guidance 2.2:** Be sensitive to the person's age, sex and cultural background.
- **Guidance 2.3:** Be vigilant when capturing biometric data from certain groups that may face data reliability challenges, for example children, people with darker skin tones or people with facial injuries, treating them with dignity when ensuring biometric quality standards.
- **Guidance 2.4:** Consider using mobile equipment to capture facial images or fingerprints, particularly for non-EU nationals with reduced mobility, travelling by car.
- **Guidance 2.5:** Quickly correct mistakes (e.g. wrong dates or spelling mistakes) once detected or reported, according to the established procedure.
- **Guidance 2.6:** Swiftly refer requests for corrections requiring further verification, based on the established procedure and inform the non-EU national accordingly.

## 2.2. Legal references

- EU Charter of Fundamental Rights, Articles 1, 8, 21(1), 22, 24;
- EES Regulation (EU) 2017/2226, Articles 10, 38 and 57;
- Commission Implementing Decision (EU) 2019/329 of 25February 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), OJ L57, 26.2.2019, pp.18–28.
- Regulation (EU) 2016/679 of the European Parliament and of the Council of 27April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L119, 4.5.2016, pp.1–88, Chapter3.
- Directive (EU) 2016/680 of the European Parliament and of the Council of 27April 2016 on the protection of natural persons with regard to the processing of personal data by competent authorities for the purposes of the prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and on the free movement of such data, and repealing Council Framework Decision 2008/977/JHA, OJ

L119, 4.5.2016, pp.89–131, Chapter3.

- Regulation (EU) 2019/817 of the European Parliament and of the Council of 20May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA OJ L135, 22.5.2019, pp.27–84,
- Regulation (EU) 2019/818 of the European Parliament and of the Council of 20May 2019 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816, OJ L135, 22.5.2019, pp.85–135, Articles47–48.

# 3. Be sensitive to people with specific needs

## 3.1. Guidance

- **Guidance 3.1:** Stay alert to signs of distress or discomfort and support non-EU nationals with specific needs, such as children, older people and people with disabilities.
- **Guidance 3.2:** Ensure that people with disabilities and those with limited digital skills can access and understand the information.
- **Guidance 3.3:** Provide additional time and/or assistance and use available alternative procedures (e.g. postponing biometric enrolment to when the person exits the EU in case of temporary injuries or extracting the facial image from the passport chip) when biometric data is impossible or difficult to capture due to injuries, disabilities, age or other physical features.
- **Guidance 3.4:** Offer to collect data more discretely from travellers who feel uncomfortable with the data collection process due to disabilities, religious attire or other reasons.
- **Guidance 3.5:** Use child-friendly language when dealing with children.
- **Guidance 3.6:** Follow established referral procedures for non-EU nationals requiring assistance, for example if non-EU nationals require more privacy, time or the assistance of an interpreter.

## 3.2. Legal references

- EU Charter of Fundamental Rights, Articles 1, 21(1), 22, 24, 25 and 26;
- EES Regulation (EU) 2017/2226, Articles 10 (2) and 17 (3).

# 4. Treat overstayers with respect and avoid automatic presumptions

## 4.1. Guidance

- **Guidance 4.1:** In a friendly manner inform non-EU nationals about the fact that they overstayed and the possible consequences of this.
- **Guidance 4.2:** Allow non-EU nationals to provide evidence to rebut the presumption of past irregular entry or of overstay and inform them about the possibility to do so.
- **Guidance 4.3:** Do not take the accuracy of EES data for granted. Remember that the risk of errors may occur despite technological safeguards, i.e. the rate of false results will never be zero.
- **Guidance 4.4:** Provide information about the right to appeal and on how to contact services to get support when entry is refused, in line with Article14(3) of the Schengen Borders Code.
- **Guidance 4.5:** Refer people expressing their wish to claim asylum, including those who have overstayed or who do not appear to meet the conditions of entry, to the national asylum procedure and respect the principle of non-refoulement.

## 4.2. Legal references

- EU Charter of Fundamental Rights, Articles 1, 18, 19(2), 21(1);
- EES Regulation (EU) 2017/2226, Articles 2(3), 9(2), 10, 12(3), and 41;
- Regulation (EU) 2016/399 of the European Parliament and of the Council of 9March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), OJ L77, 23.3.2016, pp.1–52, Articles2(16) and 14(3).
- Directive 2013/32/EU of the European Parliament and of the Council of 26June 2013 on common procedures for granting and withdrawing international protection (recast), OJ L180, 29.6.2013, pp.60–95, Recital18, Articles31(2) and 43, as of July 2026: Regulation (EU) 2024/1348 of the European Parliament and of the Council of 14May 2024 establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU, Articles34(2) and 43.
- Directive 2011/95/EU of the European Parliament and of the Council of 13December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ

L337, 20.12.2011, pp.9–26, Article25, as of July 2026: Regulation (EU) 2024/1347 of the European Parliament and of the Council of 14May 2024 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted, amending Council Directive 2003/109/EC and repealing Directive 2011/95/EU of the European Parliament and of the Council, OJ L, 2024/1347, 22.5.2024, Article25.

- Council Regulation (EC) No1030/2002 of 13June 2002 laying down a uniform format for residence permits for third-country nationals, OJ L157, 15.6.2002, pp.1–7, Article1(2)(ii).