Urgent Recommendations
for the Successful Implementation of the EES:
Ensuring Readiness and Minimising Operational Disruptions

The start of operations for the Entry-Exit System (EES) will significantly impact border management, transport stakeholders, and the passenger experience. It is the European Commission's responsibility to decide on the date of launch. However, we warn that without decisive action, there will be significant disruption to transport in Europe.

At this stage, airports and airlines across Europe remain extremely concerned by the prospect of a start of operations on 10 November 2024 (target date still to be confirmed) given that:

- **3 Member States have not been able to confirm their readiness** as required under the applicable EU Regulation[1] and have reported instability or uncertainties with key functionalities of the central system;

- **Other Members States that have reported their readiness have done so under conditionalities** which relate to the functioning of the central system and

- **Anomalies and/or limitations in the test environment have prevented reliable end-to-end testing in all Member States**. In fact, no Member State has been able to conduct end-to-end testing, despite this being an explicit requirement under the applicable EU Regulation.

It is increasingly unlikely that the EES pre-registration app will be ready for deployment at national level before EES entry into operation. In addition and in relation to the above, we wish to recall that according to the applicable EU Regulation the European Commission should set a definitive operational launch date for the EES only when:

i) eu-LISA has declared the **successful completion of a comprehensive test** of the EES in cooperation with Member States, and

ii) Member States have all confirmed their **full technical and operational readiness at all Border Crossing Points (BCP)**, measured and tested against harmonised and objective criteria.

On the basis of the above, **ACI EUROPE, A4E, ERA and IATA hereby warn that confirming a start of operations for 10 November 2024 would entail widespread disruptions across the European aviation network** – hurting severely the passenger experience, affecting airport and airline operations and compromising effective border management. This would as a result negatively impact the standing and credibility of the EU. Any alternative start of operations date shall in any case ensure that there is sufficient time for the above-mentioned issues to be resolved and that the launch date does not coincide with the traffic peak period.

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[1] 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

Therefore, we consider that any start of operations should only be confirmed based on the following:

1. ***Effective and successful end-to-end testing with passengers conducted in all Member States***. Indeed, we strongly emphasise that all the conditions stipulated by the applicable Regulation must be strictly adhered to before the EES enters into operation.

2. ***Sufficient advance notice to operational stakeholders (at least 2 months)***.

3. ***Additional flexibility confirmed to limit as much as possible significant disruptions and in particular negative impacts on Passenger Processing Times and Operations,*** as repeatedly called for over the past years by the industry.

Based on Article 9 of the Schengen Borders Code[2] and Article 21 of the EES Regulation, a well-structured mechanism for flexible border management should be established through clear guidance for border guards.

This mechanism should allow Member States, in a coherent manner, to **gradually create portions of EES records with biometric data, either upon entry or exit**.

Considering the above mentioned shortcomings and concerns which are significant and the related operational disruptions and difficulties they might entail at BCPs located at airports, **such mechanisms are an absolute necessity**.

On this basis, we consider the following tools to be an absolute minimum:

i)   **Gradual Increase in the Scope of the Capture of Biometric Features**

The simplified entry into the EES central system and the creation of individual files involve the recording and storage of biographical data (surname, first name, type, number, and expiry date of the travel document) along with the date, time, and place of entry and exit – and must be available at manual booths and ABC gates without significant impact on passenger flows.

The creation of individual files or the capture of biometric data should start for predefined Third-Country Nationals (TCN), as detailed in the table below:

Period	Capture of biometric data	Comments
Start of operations	Visa holders only	The capture of the biometric data of these travellers is facilitated by the information already captured and contained in their visa
Increased scope 1 (6-9 months after start)	Visa holders + list of additional categories of TCN to be determined	Additional categories of TCN to be agreed by the European Commission and the Member States
Increased scope 2 (12-18 months after	All TCN	

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[2] 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)

increased scope 1)		

ii) Flexibility in Case of Excessive Waiting Times at Border Control

- When waiting times at BCPs become excessive and all resources (staff, facilities, and organisation) have been exhausted a fallback procedure will allow border guards to complete these tasks as soon as possible.
- The fallback procedure will record and store biographical data (surname, first name, type, number, and expiry date of the travel document) as well as the date, time, and place of entry and exit. The calculation of the authorised stay duration, the generation of alerts when the authorised stay has expired, the recording and storage of entry refusals, and the detection and investigation of terrorist offenses and other serious criminal offenses will not be jeopardised.
- The fallback procedure will allow biometric data to be entered into the EES at the next border crossing.
- The decision to trigger the fallback procedure will be made by the border guard in charge at the BCP, based on conditions clearly defined by the European Commission and agreed by the Member States before the start of EES operations.
- All efforts should be done to minimize the burden placed on Member States when executing the flexible approach.
- Attention should be given to ensure that the activation of the fall-back procedure on entry, does not result in an additional burden on exit. Delaying the outbound journey from Member States will seriously damage operations and Schengen connectivity. Where possible, transport operators will liaise with border guards to monitor and provide information on expected waiting times at BCP.

iii) Evaluation of other proposed measures to alleviate pressure on border crossing points.

- Maintain the existing offering of Automated Border Control (ABC) to currently eligible third-country nationals, even on their first border crossing point after EES is operational.
- Additional scenarios in which the activation of flexible border management could be possible (e.g. connecting passengers, traffic peak times).

Points i) and ii) and iii) should be applied cumulatively, as they are not mutually exclusive.

4. ***Other measures & accompanying tools also needed to mitigate the impact on Passenger Processing Times and Operations:***

i) It is crucial to finalise and deploy the **pre-registration app** at both the European and national levels well in advance of the start of operations. Based on the information currently available – we understand that this will not be the case. We therefore ask for sufficient time for the app to be available and operational, by allowing Member States sufficient time to develop the front-end of the app ahead of launch.

ii) Measures must be taken to **avoid double-verification at the border**, which is essential for both efficiency and the passenger experience. These

measures should be clearly defined and implemented well ahead of the EES launch. While the Commission has indicated that such measures are being considered, <u>we need confirmation of their adoption and effective deployment both at manual booths and ABC gates in advance of the start of operation</u>.

iv) A robust **communication campaign for passengers and transport stakeholders**, including signage at BCP, should be put in place as soon as possible. <u>Apart from an information pack for air carriers, we have to date received no information whatsoever on such a campaign.</u>

v) Border Crossing Points must be **sufficiently staffed** to guarantee acceptable throughput levels that do not jeopardise operations or negatively affect the passenger experience. <u>We are extremely concerned that this will not be ensured in most BCP at Schengen airports</u>.

vi) <u>A default **24/7 phone support line** from the European Commission or its agencies for carriers must be in place before the system goes live</u>. The planned support for carriers, which relies on a web-based ticketing tool, is highly inadequate for assisting travellers in real time. Combined with the delayed official communication campaign to the public, this will negatively affect the passenger experience and seriously disrupt carrier operations at departure.

vii) <u>Well ahead of the EES launch, a **solution shall be provided** to ensure that **air crew members that do not hold a Crew Member Certificate (CMC),** are not impacted by the launch of the system.</u>

The aviation industry firmly believes that implementing the above-mentioned measures is vital for ensuring the successful rollout of the EES and the overall efficiency of European border operations

Brussels, 25 September 2024