



Plenary sitting

A9-0254/2020

11.12.2020

*****I**
REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and Regulation (EU) 2019/816 (COM(2019)0003 – C8-0025/2019 – 2019/0001(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jeroen Lenaers

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or strikeout. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and Regulation (EU) 2019/816 (COM(2019)0003 – C8-0025/2019 – 2019/0001(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2019)0003),
 - having regard to Article 294(2), Articles 82(1)(d) and 87(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0025/2019),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0254/2020),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation

Title

Text proposed by the Commission

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and

Amendment

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862, **Regulation**

Amendment 2

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) This Regulation lays down how this interoperability and the conditions for the consultation of data stored in other EU information systems and Europol data by the ETIAS automated process for the purposes of identifying hits are to be implemented. As a result, it is necessary to amend Regulations of the European Parliament and of the Council *(EU) 2018/1862 (SIS Police)*²⁶ and *(EU) yyyy/xxxx (ECRIS-TCN)*²⁷ in order to connect the ETIAS Central System to the other EU information systems and to Europol data and to specify the data that will be sent to and from those EU information systems and Europol data.

²⁶ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

²⁷ Regulation (EU) *YYYY/xxx* of the European Parliament and of the Council... (*OJ L* , , p.).

Amendment

(4) This Regulation lays down how this interoperability and the conditions for the consultation of data stored in other EU information systems and Europol data by the ETIAS automated process for the purposes of identifying hits are to be implemented. As a result, it is necessary to amend Regulations *(EU) 2018/1862 (SIS Police)*²⁶ and *(EU) 2019/816 (ECRIS-TCN)*²⁷ and *(EU) 2019/818 (Interoperability Police)*^{27a} of the European Parliament and of the Council in order to connect the ETIAS Central System to the other EU information systems and to Europol data and to specify the data that will be sent to and from those EU information systems and Europol data.

²⁶ Regulation (EU) 2018/1862 of the European Parliament and of the Council of 28 November 2018 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending and repealing Council Decision 2007/533/JHA, and repealing Regulation (EC) No 1986/2006 of the European Parliament and of the Council and Commission Decision 2010/261/EU (OJ L 312, 7.12.2018, p. 56).

²⁷ Regulation (EU) *2019/816* of the European Parliament and of the Council *of 17 April 2019 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless*

persons (ECRIS-TCN) to supplement the European Criminal Records Information System and amending Regulation (EU) 2018/1726 (OJ L 135, 22.5.2019, p. 1).

^{27a} Regulation (EU) 2019/818 of the European Parliament and of the Council of 20 May 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 L 135, 22.5.2019, p. 85).

Amendment 3

Proposal for a regulation

Recital 6

Text proposed by the Commission

(6) For efficiency reasons and in order to decrease costs, ETIAS should, as provided for in Article 6(3) of Regulation (EU) 2018/1240, re-use hardware and software components developed for the Entry/Exit System ('EES') for the development of the shared identity repository. This repository used for the storage of the identity alphanumeric data of both ETIAS applicants and third-country nationals registered in the EES, should be developed in a way enabling its extension ***to become the future Common Identity Repository. In the same spirit, the tool to be established to enable ETIAS to compare its data with the ones of every other system consulted through a single query should be developed in a way enabling its evolution to become the future European Search Portal.***

Amendment

(6) For efficiency reasons and in order to decrease costs, ETIAS should, as provided for in Article 6(3) of Regulation (EU) 2018/1240, re-use hardware and software components developed for the Entry/Exit System ('EES') for the development of the shared identity repository. This repository used for the storage of the identity alphanumeric data of both ETIAS applicants and third-country nationals registered in the EES, should be developed in a way enabling its extension.

Amendment 4

Proposal for a regulation Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) The European Search Portal (ESP), established by Regulation (EU) 2019/817 of the European Parliament and of the Council^{1a}, will enable the data stored in ETIAS to be compared to the data stored in every other EU information system by means of a single query.

^{1a.} **Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (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 L 135, 22.5.2019, p. 27).**

Amendment 5

Proposal for a regulation Recital 8

Text proposed by the Commission

Amendment

(8) It is necessary, for the purposes of ensuring the full attainment of ETIAS objectives, as well as to further the Schengen Information System ('SIS') objectives, to include in the scope of the automated verifications **a new alert category** introduced by the recent revision of SIS, namely the alert on persons subject to inquiry checks.

(8) It is necessary, for the purposes of ensuring the full attainment of ETIAS objectives, as well as to further the Schengen Information System ('SIS') objectives, to include in the scope of the automated verifications **new alert categories** introduced by the recent revision of SIS, namely the alert on persons subject to inquiry checks **and the alert on third-country nationals subject to**

a return decision.

Amendment 6

Proposal for a regulation

Recital 10

Text proposed by the Commission

(10) In accordance with Regulation (EU) **2018/xxxx** of the European Parliament and of the Council²⁹ **[ECRIS-TCN]** and in line with the intention expressed in Regulation (EU) 2018/1240, ETIAS should be able to verify if correspondences exist between data in the ETIAS application files and the European Criminal Records Information System – Third Country Nationals (‘ECRIS-TCN’) data in the Common Identity Repository (‘CIR’) as regards which Member States hold conviction information on third-country nationals and stateless persons for a terrorist offence or other serious criminal offence.

²⁹ **[Regulation (EU) yyyy/xx of the European Parliament and of the Council ... (OJ L , , p.)]**

Amendment 7

Proposal for a regulation

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10) In accordance with Regulation (EU) **2019/816** of the European Parliament and of the Council and in line with the intention expressed in Regulation (EU) 2018/1240, ETIAS should be able to verify if correspondences exist between data in the ETIAS application files and the European Criminal Records Information System – Third Country Nationals (‘ECRIS-TCN’) data in the Common Identity Repository (‘CIR’) as regards which Member States hold conviction information on third-country nationals and stateless persons for a terrorist offence ***over the previous 20 years*** or other serious criminal offence ***over the previous 10 years, as listed in the Annex to Regulation (EU) 2018/1240 where those criminal offences are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years.***

(10a) Member States already collect and process data of third country nationals

and stateless persons for the purposes of the ECRIS-TCN Regulation. This Regulation should not impose any obligation on Member States to modify or extend the data of third country nationals and stateless persons already being collected under the ECRIS-TCN Regulation.

Amendment 8

Proposal for a regulation Recital 22

Text proposed by the Commission

(22) Regulations of the European Parliament and of the Council (EU) 2018/1862 (SIS Police) and (EU) ~~yyyy/xxx~~ /ECRIS-TCN] should therefore be amended.

Amendment

(22) Regulations of the European Parliament and of the Council (EU) 2018/1862 (SIS Police) and (EU) **2019/816** (ECRIS-TCN) **and (EU) 2019/818** (Interoperability Police) of the European Parliament and of the Council should therefore be amended.

Amendment 9

Proposal for a regulation Article 1 – point 2 Regulation (EU) 2018/1862 Article 44 – paragraph 1 – point f

Text proposed by the Commission

(f) manual processing of ETIAS applications by the ETIAS National Unit, pursuant to Article 8 of Regulation (EU) 2018/1240.

Amendment

(g) manual processing of ETIAS applications by the ETIAS National Unit, pursuant to Article 8 of Regulation (EU) 2018/1240.

Amendment 10

Proposal for a regulation Article 1 – point 3 Regulation (EU) 2018/1862 Article 50a – paragraph 1

Text proposed by the Commission

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search relevant data entered in SIS. Article 50(4) to (8) of this Regulation shall apply to this access and search.

Amendment 11

Proposal for a regulation

Article 1 – point 3

Regulation (EU) 2018/1862

Article 50a – paragraph 2

Text proposed by the Commission

2. Where a verification by the ETIAS Central Unit confirms the correspondence of the data recorded in the ETIAS application files to an alert in SIS, Articles 23, 24 and 26 of Regulation (EU) 2018/1240 shall apply.

Amendment 12

Proposal for a regulation

Article 1 – point 3

Regulation (EU) 2018/1862

Article 50b – paragraph 1

Text proposed by the Commission

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central

Amendment

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search relevant data entered in SIS ***in accordance with Article 11(8) of that Regulation***. Article 50(4) to (8) of this Regulation shall apply to this access and search.

Amendment

2. Where a verification by the ETIAS Central Unit ***under Article 22 and Article 23(2) of Regulation (EU) 2018/1240*** confirms the correspondence of the data recorded in the ETIAS application files to an alert in SIS ***or where doubts remain***, Articles 23, 24 and 26 of Regulation (EU) 2018/1240 shall apply.

Amendment

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central

System of SIS shall be connected to the **tool referred to in Article 11 of Regulation (EU) 2018/1240** to enable the automated processing referred to in **that** Article.

System of SIS shall be connected to the **ESP** to enable the automated processing referred to in Article **11**.

Amendment 13

Proposal for a regulation

Article 1 – point 3

Regulation (EU) 2018/1862

Article 50b – paragraph 3

Text proposed by the Commission

3. For the purpose of verifications referred to in **Article 20(2)(a)**, (d) and (m)(i) **and** Article **23** of Regulation (EU) 2018/1240, the ETIAS Central System shall use the **tool referred to in Article 11 of that Regulation** to compare the data referred to in Article 11(5) Regulation 2018/1240 to data in SIS, in accordance with Article 11(8) of that Regulation.

Amendment

3. For the purpose of verifications referred to in **points (a)**, (d) and (m)(i) **of Article 20(2)**, Article **23(1)**, **point (c)(ii) of Article 24(6) and point (b) of Article 54(1)** of Regulation (EU) 2018/1240, the ETIAS Central System shall use the **ESP** to compare the data referred to in Article 11(5) **of** Regulation (EU) 2018/1240 to data in SIS, in accordance with Article 11(8) of that Regulation.

Amendment 14

Proposal for a regulation

Article 1 – point 3

Regulation (EU) 2018/1862

Article 50b – paragraph 4 – subparagraph 2

Text proposed by the Commission

Where a new alert referred to in Article 41(3) of Regulation (EU) 2018/1240 is entered in SIS on travel documents, reported stolen, misappropriated, lost or invalidated, SIS shall transmit the information on this alert, using the automated processing and the **tool referred to in Article 11 of that Regulation** to the ETIAS Central System in order to verify whether this new alert corresponds to an existing travel authorisation..

Amendment

Where a new alert referred to in Article 41(3) of Regulation (EU) 2018/1240 is entered in SIS on travel documents, reported stolen, misappropriated, lost or invalidated, SIS shall transmit the information on this alert, using the automated processing and the **ESP** to the ETIAS Central System in order to verify whether this new alert corresponds to an existing travel authorisation..

Amendment 15

Proposal for a regulation Article 2 – title

Text proposed by the Commission

Amendments to Regulation (EU)
yyyy/xxxx [ECRIS-TCN]

Amendment

Amendments to Regulation (EU) **2019/816**

Amendment 16

Proposal for a regulation Article 2 – paragraph 1

Text proposed by the Commission

Regulation *yyyy/xxxx* (ECRIS-TCN
Regulation) is amended as follows^{44 45}:

Amendment

Regulation **2019/816** (ECRIS-TCN
Regulation) is amended as follows^{44 45}:

⁴⁴ These amendments take into account the Commission Proposal, COM(2017) 344 final.

⁴⁵ The numeration takes into account the amendment on this Regulation made by the Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration), COM(2018) 480 final.

⁴⁴ These amendments take into account the Commission Proposal, COM(2017) 344 final.

⁴⁵ The numeration takes into account the amendment on this Regulation made by the Proposal for a Regulation of the European Parliament and of the Council on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration), COM(2018) 480 final.

Amendment 17

Proposal for a regulation Article 2 – paragraph 1 – point 1 Regulation (EU) 2019/816 Article 1 – paragraph 1 – point d

Text proposed by the Commission

“(d) the conditions under which data included in the ECRIS-TCN system may be used for the purpose of *border*

Amendment

“(d) the conditions under which data *of third country nationals or stateless persons* included in the ECRIS-TCN

*management in accordance with Regulation (EU) 2018/1240 of the European Parliament and of the Council**.

system may be used *by the ETIAS Central Unit* for the purpose of *supporting the objective of point (a) of Article 4 of Regulation (EU) 2018/1240 of the European Parliament and of the Council* of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose security risks.*

* Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1)”;

* Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1)”;

Amendment 18

Proposal for a regulation

Article 2 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2 – paragraph 1

Text proposed by the Commission

This Regulation applies to the processing of identity information of third country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member State(s) where such convictions were handed down, *as well as for the purposes of border management [and contributing to facilitating and assisting in the correct identification of persons].*

Amendment

This Regulation applies to the processing of identity information of third country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member State(s) where such convictions were handed down.

Amendment 19

Proposal for a regulation

Article 2 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Regulation also facilitates and assists in the correct identification of persons in accordance with this Regulation and with Regulation (EU) 2019/818.

Amendment 20

Proposal for a regulation

Article 2 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

This Regulation also supports the objective under point (a) of Article 4 of Regulation (EU) 2018/1240 of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose security risks.

Amendment 21

Proposal for a regulation

Article 2 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2 – paragraph 2

Text proposed by the Commission

Amendment

With the exception of point (ii) of Article 5(1)(b), the provisions of this Regulation that apply to third country nationals also apply to citizens of the Union who also hold a nationality of a third country and who have been subject to convictions in the Member States.;

With the exception of ***provisions relating to point (a) of Article 4 of Regulation (EU) 2018/1240*** and point (ii) of Article 5(1)(b), the provisions of this Regulation that apply to third country nationals also apply to citizens of the Union who also hold a nationality of a third country and who have been subject to convictions in the Member States.;

Amendment 22

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point a

Regulation (EU) 2019/816

Article 3 – point f

Text proposed by the Commission

(a) point **(f)** is replaced by the following:

“(f) ‘competent authorities’ means the central authorities and **the Union bodies** (Eurojust, Europol, the European Public Prosecutor’s Office, the ETIAS Central Unit established **within the European Border and Coast Guard Agency**) competent to access or query the ECRIS-TCN system in accordance with this Regulation;”;

Amendment

(a) point **(6)** is replaced by the following:

“(6) ‘competent authorities’ means the central authorities and Eurojust, Europol, the European Public Prosecutor’s Office **and** the ETIAS Central Unit established **under Article 7 of Regulation (EU) 2018/1240** competent to access or query the ECRIS-TCN system in accordance with this Regulation;”;

Amendment 23

Proposal for a regulation

Article 2 – paragraph 1 – point 3 – point b

Regulation (EU) 2019/816

Article 3 – point t and u

Text proposed by the Commission

(b) **the following points are added:**

“(t) ‘terrorist offence’ means an offence which corresponds or is equivalent to one of the offences referred to in Directive (EU) 2017/541 of the European Parliament and of the Council*;

(u) ‘serious criminal offence’ means an offence which corresponds or is equivalent to one of the offences referred to in Article 2(2) of Council Framework Decision 2002/584/JHA**, if it is punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years.

Amendment

deleted

* Directive (EU) 2017/541 of the

**European Parliament and of the Council
of 15 March 2017 on combating terrorism
and replacing Council Framework
Decision 2002/475/JHA and amending
Council Decision 2005/671/JHA (OJ L
88, 31.3.2017, p. 6)**

**** Council Framework Decision
2002/584/JHA of 13 June 2002 on the
European arrest warrant and the
surrender procedures between Member
States (OJ L 190, 18.7.2002, p.1);”**

Amendment 24

Proposal for a regulation

Article 2 – paragraph 1 – point 4 – point a

Regulation (EU) 2019/816

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) where applicable, a flag indicating that the *person* concerned has been convicted *for* a terrorist offence or other *serious* criminal offence, and in those cases the code of the convicting Member State(s).;

Amendment

(c) where applicable, a flag indicating, ***for the purpose of Regulation (EU) 2018/1240***, that the ***third-country national*** concerned has been convicted ***in the past 20 years of*** a terrorist offence or ***in the past 10 years of any*** other criminal offence ***as listed in the Annex to Regulation (EU) 2018/1240 where those criminal offences are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years***, and in those cases the code of the convicting Member State(s).;

Amendment 25

Proposal for a regulation

Article 2 – paragraph 1 – point 4 – point b

Regulation (EU) 2019/816

Article 5 – paragraph 1a

Text proposed by the Commission

1a. [The CIR shall contain the data referred to in points (b) and (c) of

Amendment

1a. The CIR shall contain the data referred to in points (b) and (c) of

paragraph 1 and in paragraph 2, as well as the following data referred to in point (a) of paragraph 1: surname (family name); first name(s) (given name(s)); date of birth; place of birth (town and country); nationality or nationalities; gender; the type and number of the person's travel **document(s), as well as the name of the issuing authority thereof; and where applicable previous names, pseudonyms(s) and/or alias name(s)**, as well as, in the cases referred to in point (c) of paragraph 1, the code of the convicting Member State. The remaining ECRIS-TCN data shall be stored in the ECRIS-TCN Central System./;

paragraph 1 and in paragraph 2, as well as the following data referred to in point (a) of paragraph 1: surname (family name); first name(s) (given name(s)); date of birth; place of birth (town and country); nationality or nationalities; gender; **previous names, if applicable, pseudonyms(s) and/or alias name(s), where available**, the type and number of the person's travel **documents**, the name of the issuing authority as well as, in the cases referred to in point (c) of paragraph 1, the code of the convicting Member State. The remaining ECRIS-TCN data shall be stored in the ECRIS-TCN Central System.;

Amendment 26

Proposal for a regulation

Article 2 – paragraph 1 – point 4 – point b a (new)

Regulation (EU) 2019/816

Article 5 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

(ba) the following paragraph is added:

“6a. Flags and the code of the convicting Member State(s) as referred to in point (c) of paragraph 1 of this Article shall be accessible and searchable only by the ETIAS Central System for the purpose of the verification pursuant to Article 7a of this Regulation in conjunction with point (n) of Article 20(2) of Regulation (EU) 2018/1240 where hits are identified following the automated processing referred to in Article 11 of that Regulation.

Without prejudice to the first subparagraph, flags and the code of the convicting Member State(s) as referred to in point (c) of paragraph 1 shall not be visible to any authority other than the central authority of the convicting Member State that created the flagged

record.”

Amendment 27

Proposal for a regulation

Article 2 – paragraph 1 – point 5

Regulation (EU) 2019/816

Article 7 – paragraph 5

Text proposed by the Commission

(5) in Article 7, paragraph 5 is replaced by the following:

“5. In the event of a hit, the Central System ~~/or the CIR/~~ shall automatically provide the competent authority with information on the Member State(s) holding criminal record information on the third country national, along with the associated reference number(s) *referred to in Article 5(1)* and any corresponding identity information. Such identity information shall only be used for the purpose of verification of the identity of the third country national concerned. The result of a search in the Central System may only be used for the purpose of making a request according to Article 6 of Framework Decision 2009/315/JHA, a request referred to in Article **16(4)** of this Regulation, or for the purposes of *border management [and facilitating and assisting in the correct identification of persons registered in the ECRIS-TCN system].;*”

Amendment

(5) in Article 7, paragraph 7 is replaced by the following:

“7. In the event of a hit, the Central System or the CIR shall automatically provide the competent authority with information on the Member State(s) holding criminal record information on the third country national, along with the associated reference number(s) and any corresponding identity information. Such identity information shall only be used for the purpose of verification of the identity of the third country national concerned. The result of a search in the Central System may only be used for the purpose of making a request according to Article 6 of Framework Decision 2009/315/JHA, a request referred to in Article **17(3)** of this Regulation, or for the purposes of facilitating and assisting in the correct identification of persons *and for the purpose of supporting the objective of point (a) of Article 4 of Regulation (EU) 2018/1240 of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose a security risk.*”;

Amendment 28

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Regulation (EU) 2019/816

Article 7a – paragraph 1

Text proposed by the Commission

1. The ETIAS Central Unit, **established within the European Border and Coast Guard Agency** in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search ECRIS-TCN data in the **[CIR]**. However, it shall only have access to data records to which a flag has been added in accordance with Article 5(1)(c) of this Regulation.

Amendment 29

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Regulation (EU) 2019/816

Article 7a – paragraph 2

Text proposed by the Commission

2. The **[CIR]** shall be connected to the **tool** referred to in Article 11 of Regulation (EU) 2018/1240 to enable the automated processing referred to in **that Article**.

Amendment 30

Proposal for a regulation

Article 2 – paragraph 1 – point 6

Regulation (EU) 2019/816

Article 7a – paragraph 3 – subparagraph 2

Text proposed by the Commission

For the purpose of proceeding to the verifications of Article 20(2)(n) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the **tool referred to in Article 11 of Regulation (EU) 2018/1240** to compare the data in ETIAS with the data flagged in ECRIS-TCN [in

Amendment

1. The ETIAS Central Unit, in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search ECRIS-TCN data in the **CIR**. However, it shall only have access **in accordance with Article 11(8) of that Regulation** to data records to which a flag has been added in accordance with Article 5(1)(c) of this Regulation.

Amendment

2. The **CIR** shall be connected to the **ESP** to enable the automated processing referred to in Article 11 of Regulation (EU) 2018/1240. .

Amendment

For the purpose of proceeding to the verifications of **point (n) of Article 20(2)** of Regulation (EU) 2018/1240, the ETIAS Central System shall use the **ESP** to compare the data in ETIAS with the data flagged in ECRIS-TCN [in the CIR], pursuant to **point (c) of Article 5(1)** of this

the CIR], pursuant to Article 5(1)(c) of this Regulation and in accordance with Article 11(8) of Regulation 2018/1240, and using the correspondences listed in the table in Annex II.;

Regulation and in accordance with Article 11(8) of Regulation 2018/1240, and using the correspondences listed in the table in Annex II.;

Amendment 31

Proposal for a regulation

Article 2 – paragraph 1 – point 7

Regulation (EU) 2019/816

Article 8 – paragraph 2

Text proposed by the Commission

“2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall erase the data record, including any ***fingerprints***, facial images or flags as referred to in Article 5(1)(c), from the Central System [and the CIR]. ***In those cases where the data related to a conviction for a terrorist offence or other form of serious crime as referred to in Article 5(1)(c) are deleted from the national criminal record, but information on other convictions of the same person is retained, only the flag referred to in Article 5(1)(c) shall be removed from the data record. This erasure shall take place*** automatically, where possible, and in any event no later than one month after the expiry of the retention period”;

Amendment

“2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall erase the data record, including any ***fingerprint data or*** facial images or flags as referred to in ***point (c) of*** Article 5(1), from the Central System and the CIR. ***The erasure shall be done*** automatically, where possible, and in any event no later than one month after the expiry of the retention period.

Where the expiry of the retention period concerns flags as referred to in point (c) of Article 5(1), the central authority of the convicting Member State shall erase the flags from the Central System and the CIR. This erasure shall be done automatically.”;

Amendment 32

Proposal for a regulation

Article 2 – paragraph 1 – point 8

Regulation (EU) 201816
Article 22 – paragraph 1

Text proposed by the Commission

(8) in Article 22, paragraph 1 is replaced by the following:
“1. The data included in the Central System ~~and the CIR~~ shall only be processed for the purpose of the identification of the Member State(s) holding the criminal records information of third country nationals, as well as for the purposes of ***border management [as well as for*** facilitating and assisting in the correct identification of persons ***registered in the ECRIS-TCN system]***.”;

Amendment

(8) in Article 24, paragraph 1 is replaced by the following:
“1. The data included in the Central System and the CIR shall only be processed for the purpose of the identification of the Member State(s) holding the criminal records information of third country nationals, as well as for the purposes of facilitating and assisting in the correct identification of persons ***and for the purpose of supporting the objective of point (a) of Article 4 of Regulation (EU) 2018/1240 of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose a security risk.***”;

Amendment 33

Proposal for a regulation Article 2 – paragraph 1 – point 9 – introductory part

Text proposed by the Commission

(9) in Article 30(4), the second subparagraph is replaced by the following:

Amendment

(9) in Article 32(3), the second subparagraph is replaced by the following:

Amendment 34

Proposal for a regulation Article 2 – paragraph 1 – point 9 Regulation (EU) 2019/816 Article 30 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Every month eu-LISA shall submit to the Commission statistics ***without allowing for individual identification*** relating to the recording, storage and exchange of information extracted from criminal

Amendment

Every month eu-LISA shall submit to the Commission statistics relating to the recording, storage and exchange of information extracted from criminal records through the ECRIS-TCN system

records through the ECRIS-TCN system and the ECRIS Reference implementation, including on the data records which include a flag in accordance with Article 5(1)(c).

and the ECRIS Reference implementation, including on the data records which include a flag in accordance with *point (c) of Article 5(1)*. *eu-LISA shall ensure that it is not possible to identify individuals on the basis of those statistics. At the request of the Commission, eu-LISA shall provide it with statistics on specific aspects related to the implementation of this Regulation."*

Amendment 35

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) 2019/816

Article 29a – title

Text proposed by the Commission

Article **29a**

Keeping of logs for the purpose of ETIAS

Amendment

Article **31a**

Keeping of logs for the purpose of *interoperability with* ETIAS

Amendment 36

Proposal for a regulation

Article 2 – paragraph 1 – point 10

Regulation (EU) 2019/816

Article 29a – paragraph 1

Text proposed by the Commission

For the consultations listed in Article 7a of this Regulation, a log of each ECRIS-TCN data processing operation carried out within *[the CIR]* and ETIAS shall be kept in accordance with Article 69 of Regulation (EU) No 2018/1240.;

Amendment

For the consultations listed in Article 7a of this Regulation, a log of each ECRIS-TCN data processing operation carried out within the CIR and ETIAS shall be kept in accordance with Article 69 of Regulation (EU) No 2018/1240.;

Amendment 37

Proposal for a regulation

Article 2 – paragraph 1 – point 10 a (new)

Regulation (EU) 2019/816
Article 36 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

(10a) in Article 36, paragraph 8a is added:

“8a. One year after the start of operations of ECRIS-TCN, the Commission shall evaluate whether the querying of ECRIS-TCN by the ETIAS system has been necessary to support the objective under point (a) of Article 4 of Regulation (EU) 2018/1240 of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose security risks. The Commission shall transmit the evaluation to the European Parliament, to the Council, to the European Data Protection Supervisor and to the European Union Agency for Fundamental Rights.”

Amendment 38

Proposal for a regulation
Article 2 – paragraph 1 – point 10 b (new)
Regulation (EU) 2019/816
Article 36 – paragraph 10 – point a a (new)

Text proposed by the Commission

Amendment

(10b) in Article 36, paragraph 10 the following point is added:

“(aa) the extent to which, on the basis of relevant statistical data and further information from the Member States, the querying of ECRIS-TCN by the ETIAS system has been necessary to support the objective under point (a) of Article 4 of Regulation (EU) 2018/1240 of identifying whether the presence of ETIAS applicants on the territory of the Member States would pose security risks;

Amendment 39

Proposal for a regulation

Article 2 – paragraph 1 – point 11

Regulation (EU) 2019/816

Annex II – Table

Text proposed by the Commission

Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System	The ECRIS-TCN corresponding data of Article 5(1) of this Regulation in <i>[the CIR]</i> against which the ETIAS data should be checked
surname (family name)	surname (family name)
surname at birth	previous name(s)
first name(s) (given name(s))	first name(s) (given name(s))
other names (alias(es), artistic name(s), usual name(s))	pseudonym and/or alias name(s)
date of birth	date of birth
place of birth	place of birth (town and country)
country of birth	place of birth (town and country)
sex	gender
current nationality	nationality or nationalities
other nationalities (if any)	nationality or nationalities
type of the travel document	type of the person's identification documents
number of the travel document	number of the person's identification documents
country of issue of the travel document	name of the issuing authority

Amendment

Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System	The corresponding ECRIS-TCN data of Article 5(1) of this Regulation in the CIR against which the data in ETIAS are to be checked
surname (family name)	surname (family name)
surname at birth	previous name(s)
first name(s) (given name(s))	first name(s) (given name(s))
other names (alias(es), artistic name(s), usual name(s))	pseudonym and/or alias name(s)

date of birth	date of birth
place of birth	place of birth (town and country)
country of birth	place of birth (town and country)
sex	gender
current nationality	nationality or nationalities
other nationalities (if any)	nationality or nationalities
type of the travel document	type of the person's <i>travel or</i> identification documents
number of the travel document	number of the person's <i>travel or</i> identification documents
country of issue of the travel document	name of the issuing authority

Amendment 40

Proposal for a regulation Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Amendments to Regulation (EU) 2019/818 (Interoperability Police)

Regulation (EU) 2019/818 is amended as follows:

(1) in Article 18, the following paragraph is inserted:

“1a. For the purpose of Article 20 of Regulation (EU) 2018/1240, the CIR shall also store, logically separated from the data referred to in paragraph 1 of this Article, the data referred to in point (c) of Article 5(1) of Regulation (EU) 2019/816. The data referred to in point (c) of Article 5(1) of Regulation (EU) 2019/816 shall only be accessible in the manner referred to in Article 5(6a) of that Regulation.”

(2) in Article 68(1), the following paragraph is inserted:

“1a. Without prejudice to paragraph 1, for the purposes of the automated processing of Article 20, Article 23, point (c)(ii) of Article 24(6), Article 41 and

point (b) of Article 54(1) of Regulation (EU) 2018/1240, the ESP shall start operations, limited to those purposes, once the conditions laid down in Article 88 of Regulation (EU) 2018/1240 have been met. ”

Amendment 41

Proposal for a regulation Article 3 – paragraph 2

Text proposed by the Commission

Amendment

It shall apply from the date determined in accordance with the second paragraph of Article 96 of Regulation (EU) 2018/1240.

deleted

EXPLANATORY STATEMENT

Background and content of the proposal

Following the adoption, in September 2018, by the Council and the European Parliament of two legislative acts setting out ETIAS - a Regulation establishing the European Travel Information and Authorisation System ('ETIAS')¹ and an amendment of the Europol Regulation for the purpose of establishing ETIAS² - the Commission presented its proposals for the so-called ETIAS consequential amendments.

The ETIAS Regulation stipulates, in its Article 11(2) that: "The amendments to the legal acts establishing the EU information systems that are necessary for establishing their interoperability with ETIAS as well as the addition of corresponding provisions in this Regulation shall be the subject of a separate legal instrument". On this basis, on 7 January 2019, the Commission presented two different proposals of consequential amendments aiming to set out the technical amendments necessary to fully set up the ETIAS system by amending the legal acts of the EU information technology systems ETIAS queries, as well as setting out corresponding provisions and amends the ETIAS Regulation accordingly (2019/0001 (COD) and 2019/0002 (COD)).

Additionally, in line with the April 2016 Communication on "Smarter Information Systems for borders and security", ETIAS is to be built based on a re-use of hardware and software components developed for the EES. This is also the approach followed by the legislative proposals on the interoperability of information systems. The technical development of the common identity repository and the European search portal as foreseen by the legislative proposals on the interoperability of information systems would be developed on the basis of the EES/ETIAS components. The proposals therefore present amendments to the ETIAS Regulation to specify that the ETIAS Central System would build upon the EES Central System's hardware and software components in order to establish a shared identity repository for the storage of the identity alphanumeric data of both ETIAS applicants and third-country nationals registered in EES.

Procedure

Because the Commission's proposals were not accompanied by Impact Assessments, and in order to properly assess the proposals and to prepare for this draft report, the decision was taken by the Coordinators of the political Groups to request a substitute Impact Assessment prepared by the European Parliament Research Services (EPRS), which was concluded and presented to the LIBE Committee in December 2019.

The rapporteur stresses the importance of having Impact Assessments in order to carefully assessment and properly analyse new legislative proposals, and its relevance as a contributing

¹ Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).

² Regulation (EU) 2018/1241 of the European Parliament and of the Council of 12 September 2018 amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS) (OJ L 236, 19.9.2018, p. 72).

factor to the quality of law making.

In addition, to complement the information, it was requested the opinions of the Fundamental Rights Agency, the European Data Protection Service and the European Data Protection Board.

Position of the rapporteur

The rapporteur welcomes in general the proposals for Consequential Amendments of the European Travel Information and Authorisation System. However, he considers that there is room for improvement concerning some of the amended articles and following the recommendations of the substitute Impact Assessment by the EPRS.

He supports the overall rationale and the main elements of the Commission's proposals, recognizing that the proposals are a consequence and a legal obligation following the provisions of Regulation 2018/1240 (ETIAS regulation) that was agreed upon by the co-legislators. The automated checks required under the ETIAS Regulation can only be carried out if the ETIAS Central System is able to communicate with other EU information systems. The proposals set out the technical elements needed to compare personal data in the different applications with the data present in records, files or alerts registered in the EU information systems and databases in light of the interoperability of information systems for security, border and migration management.

Given the fact that the Commission's proposals were presented on 7 January 2019, while the interinstitutional negotiations on the interoperability framework proposals and the ECRIS-TCN proposal were still ongoing, it was necessary to update the Commission's proposals in line with the agreements on those files that have been adopted in the meantime.

In line with recommendations made by the substitute Impact Assessment prepared by the EPRS, further improvements have been made to the procedure of flagging of third-country nationals that have been convicted of terrorism or serious criminal offences. Furthermore, the provisions regarding monitoring and statistics have been strengthened in such a way as to make sure that the Commission will need to regularly evaluate the querying of the ECRIS-TCN system by the ETIAS system and inform the European Parliament and the EDPS. Lastly, the Rapporteur considers the definition of partial correspondence between EU information systems' records by implementing act inappropriate. Regarding the potential significant impact on the rights of private life and personal data protection, it is more appropriate to do that by delegated act in order to ensure proper oversight by the European Parliament in line with similar provisions that exist in the Interoperability framework Regulations.

Finally, the Rapporteur believes there is added value in querying the Schengen Information Systems (SIS) also for alerts on third country nationals that are subject to a return decision. Querying the SIS for this type of alert at an early stage, before the third-country national presents him or herself at the border of a Member State, will be to the benefit of the Member State and the third-country national.

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and Regulation (EU) 2018/xxx [ECRIS-TCN]			
References	COM(2019)0003 – C8-0025/2019 – 2019/0001(COD)			
Date submitted to Parliament	7.1.2019			
Committee responsible Date announced in plenary	LIBE 17.1.2019			
Committees asked for opinions Date announced in plenary	AFET 17.1.2019	TRAN 17.1.2019		
Not delivering opinions Date of decision	AFET 6.11.2019	TRAN 21.1.2019		
Rapporteurs Date appointed	Jeroen Lenaers 24.9.2019			
Discussed in committee	3.9.2020	10.9.2020	15.10.2020	7.12.2020
Date adopted	7.12.2020			
Result of final vote	+: -: 0:	55 9 0		
Members present for the final vote	Magdalena Adamowicz, Konstantinos Arvanitis, Malik Azmani, Katarina Barley, Fernando Barrena Arza, Pietro Bartolo, Nicolas Bay, Vladimír Bilčík, Vasile Blaga, Ioan-Rareş Bogdan, Patrick Breyer, Saskia Bricmont, Jorge Buxadé Villalba, Damien Carême, Anna Júlia Donáth, Lena Düpont, Cornelia Ernst, Nicolaus Fest, Jean-Paul Garraud, Maria Grapini, Sylvie Guillaume, Andrzej Halicki, Evin Incir, Sophia in 't Veld, Patryk Jaki, Livia Járóka, Marina Kaljurand, Assita Kanko, Fabienne Keller, Peter Kofod, Łukasz Kohut, Moritz Körner, Alice Kuhnke, Jeroen Lenaers, Juan Fernando López Aguilar, Nuno Melo, Roberta Metsola, Nadine Morano, Javier Moreno Sánchez, Maite Pagazaurtundúa, Nicola Procaccini, Emil Radev, Paulo Rangel, Ralf Seekatz, Michal Šimečka, Birgit Sippel, Martin Sonneborn, Tineke Strik, Ramona Strugariu, Annalisa Tardino, Tomas Tobé, Milan Uhrík, Tom Vandendriessche, Bettina Vollath, Javier Zarzalejos			
Substitutes present for the final vote	Delara Burkhardt, Andor Deli, Leopoldo López Gil, Kostas Papadakis, Anne-Sophie Pelletier, Rob Rooken, Domènec Ruiz Devesa, Hilde Vautmans, Petar Vitanov			
Date tabled	11.12.2020			

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

55	+
EPP	Magdalena ADAMOWICZ, Vladimír BILČÍK, Vasile BLAGA, Ioan-Rareş BOGDAN, Andor DELI, Lena DÜPONT, Andrzej HALICKI, Lívia JÁRÓKA, Jeroen LENAERS, Leopoldo LÓPEZ GIL, Nuno MELO, Roberta METSOLA, Nadine MORANO, Emil RADEV, Paulo RANGEL, Ralf SEEKATZ, Tomas TOBÉ, Javier ZARZALEJOS
S&D	Katarina BARLEY, Pietro BARTOLO, Delara BURKHARDT, Maria GRAPINI, Sylvie GUILLAUME, Evin INCIR, Marina KALJURAND, Łukasz KOHUT, Juan Fernando LÓPEZ AGUILAR, Javier MORENO SÁNCHEZ, Domènec RUIZ DEVESA, Birgit SIPPEL, Petar VITANOV, Bettina VOLLATH
RENEW	Malik AZMANI, Anna Júlia DONÁTH, Sophia in 't VELD, Fabienne KELLER, Moritz KÖRNER, Maite PAGAZAURTUNDÚA, Michal ŠIMEČKA, Ramona STRUGARIU, Hilde VAUTMANS
ID	Nicolas BAY, Nicolaus FEST, Jean-Paul GARRAUD, Peter KOFOD, Annalisa TARDINO, Tom VANDENDRIESSCHE
GREENS/EFA	Alice KUHNKE
ECR	Jorge BUXADÉ VILLALBA, Patryk JAKI, Assita KANKO, Nicola PROCACCINI, Rob ROOKEN
NI	Martin SONNEBORN, Milan UHRÍK
9	-
GREENS/EFA	Patrick BREYER, Saskia BRICMONT, Damien CARÊME, Tineke STRIK
EUL/NGL	Konstantinos ARVANITIS, Fernando BARRENA ARZA, Cornelia ERNST, Anne-Sophie PELLETIER
NI	Kostas PAPADAKIS
0	0

Key to symbols:

+ : in favour

- : against

0 : abstention