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| From: | Presidency |
| To: | Working Party on Frontiers/Mixed Committee (EU-Iceland/Liechtenstein/Norway/Switzerland) |
| Subject: | Proposal for a Regulation of the European Parliament and of the Council establishing the conditions for accessing other EU information systems for ETIAS purposes and amending Regulation (EU) 2018/1240, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226 and Regulation (EU) 2018/1861 |

With a view to the Working Party on Frontiers of 26 February 2019, delegations will find hereafter the text of the proposal for the aforementioned Regulation, as revised by the Presidency.

These Presidency compromise proposals are based on the outcome of the discussions at the Working Party on Frontiers of 23 January 2019, as well as on delegations' written comments.

Changes to the Commission proposal are marked in **bold underline** and ~~striketrough~~.

2019/0002 (COD)

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**establishing the conditions for accessing other EU information systems for ETIAS purposes and amending Regulation (EU) 2018/1240, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226 and Regulation (EU) 2018/1861¹**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 77(2)(a), (b) and (d) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee²,Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the ordinary legislative procedure,

Whereas⁴:

- (1) Regulation (EU) 2018/1240 of the European Parliament and of the Council⁵ established the European Travel Information and Authorisation System ('ETIAS') for third-country nationals exempt from the requirement to be in possession of a visa when crossing the external borders. It laid down the conditions and procedures to issue or refuse a travel authorisation.

¹ General scrutiny reservation: DE.

² OJ C , , p. .

³ OJ C , , p. .

⁴ Recitals on variable geometry under scrutiny by CLS.

⁵ 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) ETIAS enables consideration of whether the presence of those third-country nationals in the territory of the Member States would pose a security, illegal immigration or high epidemic risk.
- (3) In order to enable the verification referred to in Article 20 of Regulation (EU) 2018/1240, it is necessary to establish the interoperability referred to in Article 11 of that Regulation. Without this interoperability, ETIAS is unable to start its operations.
- (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) 2018/1240, (EC) No 767/2008⁶, (EU) 2017/2226⁷, (EU) 2018/1861–(SIS–border)⁸, 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.
- (5) 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.
- (6) Technical modalities should be defined to enable ETIAS to regularly and automatically verify in other systems whether the conditions for the retention of application files, as laid down in Regulation (EU) 2018/1240, are still fulfilled.

⁶ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).

⁷ 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 (OJ L 327, 9.12.2017, p. 20).

⁸ Regulation (EU) 2018/1861 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 border checks, and amending the Convention implementing the Schengen Agreement, and amending and repealing Regulation (EC) No 1987/2006 (OJ L 312, 7.12.2018, p. 14).

- (7) 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) ETIAS travel authorisation may be revoked following the registration in SIS of new alerts on refusal of entry and stay, or concerning a travel document reported as lost, stolen, misappropriated or invalidated. In order for ETIAS Central System to be automatically informed by SIS of such new alerts, an automated process should be established between SIS and ETIAS.
- (9) With a view to rationalise and simplify the work of border guards through the implementation of a more uniform border control process for all third-country national entering for a short stay, following the adoption of Regulation (EU) 2017/2226 and Regulation (EU) 2018/1240, it is now desirable to align the way EES and ETIAS are working together on the way EES and VIS are integrated for the purpose of border control process and registration of border crossings in EES.
- (10) The conditions under which the ETIAS Central Unit and ETIAS National Units may consult data stored in other EU information systems for the purposes of ETIAS should be safeguarded by clear and precise rules regarding the access by the ETIAS Central Unit and ETIAS National Units to the data stored in other EU information systems, the type of queries and categories of data, all of which should be limited to what is strictly necessary for the performance of their duties. In the same vein, the data stored in the ETIAS application file should only be visible to those Member States that are operating the underlying information systems in accordance with the modalities of their participation. As an example, the provisions of this Regulation relating to the Schengen Information System and the Visa Information System constitute provisions building upon all the provisions of the Schengen acquis, for which the Council Decisions⁹ on the application of the provisions of the Schengen acquis relating to the Schengen Information System and the Visa Information System are relevant.

⁹ Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17); Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Croatia (OJ L 108, 26.4.2017, p. 31); Council Decision (EU) 2017/1908 of 12 October 2017 on the putting into effect of certain provisions of the Schengen acquis relating to the Visa Information System in the Republic of Bulgaria and Romania (OJ L 269, 19.10.2017, p. 39–43); Council Decision (EU) 2018/934 of 25 June 2018 on the putting into effect of the remaining provisions of the Schengen acquis relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 165, 2.7.2018, p. 37).

- (11) According to Article 73 of Regulation (EU) 2018/1240, the European agency for the operational management of large-scale information systems in the area of freedom, security and justice ('eu-LISA'), established by Regulation (EU) 2018/1726 of the European Parliament and of the Council¹⁰, should be responsible for the design and development phase of the ETIAS Information System.
- (12) This Regulation is without prejudice to Directive 2004/38/EC¹¹.
- (13) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (14) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC¹²; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (15) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹³; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (16) As regards Iceland and Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*¹⁴ which fall within the area referred to in Article 1, points A and B of Council Decision 1999/437/EC¹⁵.

¹⁰ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

¹¹ OJ L 158, 30.4.2004, p. 77.

¹² Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

¹³ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

¹⁴ OJ L 176, 10.7.1999, p. 36.

¹⁵ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

- (17) As regards Switzerland, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹⁶ which fall within the area referred to in Article 1, points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁷ and with Article 3 of Council Decision 2008/149/JHA¹⁸.
- (18) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹⁹ which fall within the area referred to in Article 1, points A and B of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU²⁰ and with Article 3 of Council Decision 2011/349/EU²¹.

¹⁶ OJ L 53, 27.2.2008, p. 52.

¹⁷ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

¹⁸ Council Decision 2008/149/JHA of 28 January 2008 on the conclusion on behalf of the European Union of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 50).

¹⁹ OJ L 160, 18.6.2011, p. 21.

²⁰ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

²¹ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

- (19) As regards, Cyprus, Bulgaria, Romania and Croatia, the provisions of this Regulation that amend the Regulation establishing ETIAS constitute provisions building upon, or otherwise related to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession respectively.
- (20) As regards Cyprus, Bulgaria, Romania and Croatia, the provisions of this Regulation relating to the VIS, the SIS and the EES constitute provisions building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession read in conjunction with Council Decisions 2010/365/EU²², (EU) 2017/733²³, (EU) 2017/1908²⁴ and (EU) 2018/934²⁵.
- (21) Regulations ~~(EU) 2018/1240~~, (EC) No 767/2008, (EU) 2017/2226, **(EU) 2018/1240** and (EU) 2018/1861 ~~(SIS border)~~ of the European Parliament and of the Council should therefore be amended.
- (22) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 of the European Parliament and the Council²⁶,

HAVE ADOPTED THIS REGULATION:

²² Council Decision 2010/365/EU of 29 June 2010 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 166, 1.7.2010, p. 17).

²³ Council Decision (EU) 2017/733 of 25 April 2017 on the application of the provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Croatia (OJ L 108, 26.4.2017, p. 31).

²⁴ Council Decision (EU) 2017/1908 of 12 October 2017 on the putting into effect of certain provisions of the Schengen *acquis* relating to the Visa Information System in the Republic of Bulgaria and Romania (OJ L 269, 19.10.2017, p. 39–43).

²⁵ Council Decision (EU) 2018/934 of 25 June 2018 on the putting into effect of the remaining provisions of the Schengen *acquis* relating to the Schengen Information System in the Republic of Bulgaria and Romania (OJ L 165, 2.7.2018, p. 37).

²⁶ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (OJ L 295, 21.11.2018, p. 39).

CHAPTER I: AMENDMENTS TO REGULATION (EU) 2018/1240

Article 1

Amendments to Regulation (EU) 2018/1240 ~~{ETIAS}~~

- (1) in Article 3(1), the following point is added:

“(23) ‘other EU information systems’ means the Entry/Exit System (‘EES’), the Visa Information System (‘VIS’), the Schengen Information System (‘SIS’), **Eurodac** and the European Criminal Record Information System – Third Country Nationals (‘ECRIS-TCN’).”;

- (2) in Article 4, the following point is added:

“(h*) support the objectives of the EES.”;

* 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 (borders and visa), COM(2018) 478 final”;

- (3) in Article 6(3), the following sub-paragraphs are added:

“In particular, the ETIAS Central System shall build upon the EES Central System 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. The identity alphanumeric data of ETIAS applicants stored in the shared identity repository shall form part of the ETIAS Central System. {This shared identity repository shall be the basis for the implementation of the Common Identity Repository (‘CIR’) established by Regulation Interoperability.}

This is without prejudice to keeping the EES and ETIAS data logically separated and subject to access as defined in the regulations establishing the respective information systems.”;

(4) Article 11 is replaced by the following:

“Article 11

Interoperability with other EU information systems and Europol data;

1. Interoperability between the ETIAS Information System, other EU information systems and Europol data shall be established to enable the automated processing referred to in Articles 20, 23, Article 24(6)(c)(ii), Article 41 and Article 54(1)(b).


[Interoperability shall rely on the European Search Portal (‘ESP’), established by Article 6 of Regulation (EU) 2018/XXX (interoperability). During a transitional period, before the ESP is available, the automated processing shall rely on a tool developed by eu-LISA for the purpose of this paragraph. This tool shall be used as the basis for the development and implementation of the ESP, in accordance with Article 52 of that Regulation].

2. For the purpose of proceeding to the verifications referred to in Article 20(2)(i), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the VIS, established by Regulation (EC) 767/2008 of the European Parliament and of the Council*, with the following data of Articles 17(2)(a), (ab²⁷), (c) and (d) of this Regulation:

- (a) surname (family name) ;
- (b) surname at birth;
- (c) first name(s) (given name(s)) ;
- (d) date of birth;
- (e) place of birth;
- (f) country of birth;
- (g) sex;
- (h) current nationality;


²⁷ 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 (borders and visa), COM(2018) 478 final.

- (i) other nationalities (if any);
- (j) type, number, the country of issue of the travel document.
3. For the purpose of proceeding to the verifications referred to in Article 20(2)(g) and (h), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the EES, established by Regulation (EU) 2017/2226, with the following data of Article 17(2)(a) to (d):
- (a) surname (family name) ;
- (b) surname at birth;
- (c) first name(s) (given name(s));
- (d) date of birth;
- (e) sex;
- (f) current nationality;
- (g) other names (alias(es));
- (h) artistic name(s);
- (i) usual name(s);
- (j) other nationalities (if any);
- (k) type, number, the country of issue of the travel document.
4. For the purpose of proceeding to the verifications referred to in Article 20(2)(c), **and** (m)(ii) ~~and (e), and Article 23(1)~~, the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the SIS established by Regulation (EU) 2018/1861 ~~10 (border checks)~~ with the following data of Articles 17(2)(a) to (d) and Article 17(2)(k):

- 
- (a) surname (family name);
 - (b) surname at birth;
 - (c) first name(s) (given name(s));
 - (d) date of birth;
 - (e) place of birth;
 - (f) sex;
 - (g) current nationality;
 - (h) other names (alias(es));
 - (i) artistic name(s);
 - (j) usual name(s);
 - (k) other nationalities (if any);
 - (l) type, number, the country of issue of the travel document;
 - (m) for minors, surname and first name(s) of applicant's parental authority or legal guardian.

5. For the purpose of proceeding to the verifications referred to in Article 20(2)(a), (d) and (m)(i) and Article 23(1), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the SIS established by Regulation (EU) 2018/1862 (police), with the following data of Articles 17(2)(a) to (d) and Article 17(2)(k):

- (a) surname (family name);
- (b) surname at birth;

- 
- (c) first name(s) (given name(s));
 - (d) date of birth;
 - (e) place of birth;
 - (f) sex ;
 - (g) current nationality;
 - (h) other names (alias(es)) ;
 - (i) artistic name(s);
 - (j) usual name(s);
 - (k) other nationalities (if any);
 - (l) type, number, the country of issue of the travel document;
 - (m) for minors, surname and first name(s) of applicant's parental authority or legal guardian.

6. For the purpose of proceeding to the verifications referred to in Article 20(2)(n), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the ECRIS-TCN data [in the CIR] established by [Regulation (EU) 2018/XXX], with the following data of Article 17(2)(a) to (d):

- (a) surname (family name);
- (b) surname at birth;
- (c) first name(s) (given name(s));
- (d) date of birth;
- (e) place of birth;

- (f) sex;
- (g) current nationality;
- (h) other names (alias(es));
- (i) artistic name(s);
- (j) usual name(s);
- (k) other nationalities (if any);
- (l) type, number, the country of issue of the travel document;

7. For the purpose of proceeding to the verifications referred to in Article 20(2)(j), the automated processing referred to in Article 11(1) shall enable the ETIAS Central System to query the Europol data, with the information of Article 17(2) as listed in Article 20(2) of this Regulation.
8. Where hits are identified, the tool referred to in Article 11, shall make temporarily available the results in the application file to the ETIAS Central Unit, until the end of the manual process pursuant to Article 22(2) and Article 23(2). Where the data made available correspond to those of the applicant or where doubts remain, the unique **reference number of the record in the queried EU information system** ~~ID-code~~ of the data having triggered a hit shall be kept in the application file.

Where hits are identified, pursuant to this paragraph, the automated processing shall receive the appropriate notification in accordance with –Article 21(1a) of Regulation (EU) 2016/794.

9. A hit shall be triggered where all or some of the data from the ETIAS application file used for the query correspond fully or partially to the data present in a record, alert or file of the other EU information systems consulted. The Commission shall, by means of an implementing act, define partial correspondence, including a degree of probability.
10. For the purpose of paragraph 1, the Commission, shall, by means of an implementing act, define the technical modalities for the implementation of Article 24(6)(c)(ii) and Article 54(1)(b) related to data retention.

11. For the purpose of Article 25(2), Article 28(8) and Article 29(9) when registering the data related to hits into the ETIAS application file, the origin of the data shall be indicated. This shall include the type of the alert, except for alerts referred to in Article 23(1), the source of the data (which other EU information systems or Europol data), the unique identification number used in the source of the data having triggered the hit and the Member State that entered or supplied the data having triggered the hit and, where available, the date and time when the data was entered in the other EU information systems or Europol data.

* Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218, 13.8.2008, p. 60).”;

- (5) the following article is inserted:

“Article 11a
Support of the objectives of the EES

For the purpose of Articles 6, 14, ~~and 17~~ **and 18** of Regulation (EU) 2017/2226, an automated process, using the secure communication infrastructure of Article 6(2)(d) of this Regulation, shall query and import from the ETIAS Central System, the information referred to in Article 47(2) of this Regulation, as well as the application number and the end of validity date period of an ETIAS travel authorisation, and create or update the entry/exit record or the refusal of entry record in the EES accordingly.”;

- ~~(6) in Article 12, the sole paragraph is numbered as paragraph 1 and the following paragraph is added:~~

~~“2. For the purpose of paragraph 1, a cooperation agreement is to be agreed upon between the European Union and INTERPOL. This cooperation agreement shall provide for the modalities for the exchange of information and safeguards for the protection of personal data.”;~~

- (7) in Article 20(2), the following point is added:

“(n) whether the applicant corresponds to a person whose data is recorded in the ECRIS-TCN for terrorists offences and other serious criminal offences;

(8) in Article 22 the following paragraph is added:

“7. The ETIAS Information System shall keep records of all data processing operations carried out for assessments under paragraphs ~~4~~² to 6 by the ETIAS Central Unit. Those records shall be created and entered automatically in the application file. They shall show the date and time of each operation, the data linked to the hit received, the staff member having performed the manual processing under paragraphs ~~2~~⁴ to 6 and the outcome of the verification and the corresponding justification.”;

(9) Article 23 is amended as follows:

(a) point (c) of paragraph 1 is replaced by the following:

“(c) an alert on persons for discreet checks, inquiry checks or specific checks.”;

(b) **the first subparagraph of** paragraph 2 is replaced by the following:

“2. Where the comparison referred to in paragraph 1 reports one or several hits, the ETIAS Central System shall send an automated notification to the ETIAS Central Unit. When notified, the ETIAS Central Unit shall have access to the application file and any linked application files, in order to verify whether the applicant’s personal data correspond to the personal data contained in the alert having triggered that hit and if a correspondence is confirmed, the ETIAS Central System shall send an automated notification to the SIRENE Bureau of the Member State that entered the alert. The SIRENE Bureau concerned shall further verify whether the applicant’s personal data correspond to the personal data contained in the alert having triggered the hit and take any appropriate follow-up action.”;

(c) ~~the following paragraph is added:~~

~~“5. The ETIAS Information System shall keep records of all data processing operations carried out for assessments under paragraphs 1 to 4 by the ETIAS Central Unit. Those records shall be created and entered automatically in the application file. They shall show the date and time of each operation, the data linked to the hit received, the staff member of the Central Unit having performed the manual processing under paragraphs 1 to 4, the outcome of the verification and the corresponding justification.”;~~

(9a) the following article is inserted:

“Article 11ab

Interoperability between ETIAS and EES for the purpose of self-revocation of an ETIAS travel authorisation

- 1. For the purpose of implementing Article 41(8), an automated process, using the secure communication infrastructure of Article 6(2)(d) of this Regulation, shall query the EES Central System to verify that the applicants requesting the revocation of their travel authorisations are not present on the territory.**
- 2. Where the outcome of the verification in the EES Central System indicates that the person is not present on the territory of a Member State, the revocation shall be effective immediately.**
- 3. Where the outcome of the verification in the EES Central System indicates that the person is present on the territory of a Member State, the revocation shall be suspended in accordance with Article 41(8). The EES Central System shall record that a notification has to be sent to the ETIAS Central System as soon as an entry/exit record indicating that the applicant having requested revocation of the travel authorisation has left the territory of the Member States has been recorded.”;**

(10) the following article is inserted:

“Article 25a

Use of other EU information systems for the manual processing of application by the ETIAS National Units

1. Without prejudice to Article 13(1) of this Regulation, ETIAS National Units shall have a direct access to and may consult, in a read-only format, the other EU information systems for examining applications for travel authorisation and adopting decisions relating to those applications in accordance with Article 26 of this Regulation. The ETIAS National Units may consult the data referred to in the following provisions:
 - (a) Articles 16 to 18 of Regulation (EU) 2017/2226;
 - (b) Articles 9 to 14 of the Regulation (EC) No 767/2008;
 - (c) Articles 24, ~~and 25~~ **and 26** of the SIS-Regulation (EU) No 2018/1861 (~~Border checks~~);
 - (d) Articles 26, 32, 34, 36 and Article 38(2)(k) and (l), of the SIS-Regulation (EU) No 2018/1862 (~~Police~~);

2. The ETIAS National Units shall also have access to the national criminal records registers in order to obtain the information on third country national and stateless persons convicted for a terrorist offence or other serious criminal offence for the purposes referred to in paragraph 1.

(11) in Article 26(3), point (b) is replaced by the following:

- “(b) assess the security or illegal immigration risk and decide whether to issue or refuse a travel authorisation where the hit corresponds to any of the verifications referred to in point (b) and points (d) to (n) of Article 20(2).”;

(12) in Article 41, paragraph 3 is replaced by the following:

- “3. Without prejudice to paragraph 2, where a new alert is issued in SIS concerning refusal of entry and stay, or concerning a travel document reported as lost, stolen, misappropriated or invalidated, SIS shall inform the ETIAS Central System. The ETIAS Central System shall verify whether this new alert corresponds to a valid travel authorisation. Where this is the case, the ETIAS Central System shall transfer the application file to the ETIAS National Unit of the Member State having entered the alert. Where a new alert for refusal of entry and stay has been issued, the ETIAS National Unit shall revoke the travel authorisation. Where the travel authorisation is linked to a travel document reported as lost, stolen, misappropriated or invalidated in SIS or SLTD, the ETIAS National Unit shall manually process the application file.”;

(12a) in Article 47(2), point (a) is replaced by the following:

- “(a) whether or not the person has a valid travel authorisation, including whether the person’s status corresponds to the status referred to under Article 2(1)(c), and in the case of a travel authorisation with limited territorial validity issued under Article 44, the Member State(s) for which it is valid;”;**

(13) Article 88 is amended as follow:

(a) in paragraph 1, point (a) is replaced by the following:

- “(a) the necessary amendments to the legal acts establishing the EU information systems referred to in Article 11 with which interoperability, in the meaning of Article 11 of this Regulation, shall be established with the ETIAS Information System have entered into force, with the exception of the Eurodac recast;”

(b) point (d) is replaced by the following:

- “(d) the measures referred to in Article 11(8), Article 11(9), Article 15(5), Article 17(3), (5) and (6), Article 18(4), Article 27(3) and (5), Article 33(2) and (3), Article 36(3), Article 38(3), Article 39(2), Article 45(3), Article 46(4), Article 48(4), Article 59(4), Article 73(3)(b), Article 83(1), (3), and (4) and Article 85(3) have been adopted;”;

(c) the following paragraphs are added:

- “6. The interoperability, referred to in Article 11, with ECRIS-TCN shall start when {the CIR} enters into operations, ~~which is scheduled in 2022~~. ETIAS’ operations shall start irrespective of whether that interoperability with ECRIS-TCN is put in place.
7. **If the implementation of Article 12 is not ensured**, ETIAS shall start its operations ~~irrespective of whether a cooperation agreement between the European Union and INTERPOL as referred to in Article 12(2) has been concluded and irrespective of whether it is possible to~~ **without querying** Interpol’s databases.”.

(14) ~~The second paragraph of Article 96~~**(2)** is amended as follow:

“This Regulation shall apply from the date determined by the Commission in accordance with Article 88, with the exception of Articles 6, 11, 11a, 12, 33, 34, 35, 59, 71, 72, 73, Articles 75 to 79, Articles 82, 85, 87, 89, 90, 91, Article 92(1) and (2), Articles 93 and 95, as well as the provisions related to the measures referred to in point (d) of Article 88(1), which shall apply from 9 October 2018.”

CHAPTER II: AMENDMENTS TO OTHER UNION INSTRUMENTS

Article 2

Amendments to Regulation (EC) No 767/2008 ~~(VIS)~~

Regulation (EC) No 767/2008 is amended as follows:

(1) in Article 6, paragraph 2 is replaced by the following:

“2. Access to the VIS for consulting the data shall be reserved exclusively to the duly authorised staff of the ETIAS Central Unit, the national authorities of each Member State, including to duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240 of the European Parliament and of the Council*, which are competent for the purposes laid down in Articles 15 to 22, and for the duly authorised staff of the national authorities of each Member States and of the EU agencies ~~bodies~~ which are competent for the purposes laid down in [Article 20 and Article 21 of the Regulation 2018/xx on interoperability] limited to the extent that the data are required for the performance of their tasks in accordance with those purposes, and proportionate to the objectives pursued.”;

* 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) the following articles are inserted:

“Article 18b

Interoperability with ETIAS in the meaning of Article 11 of Regulation (EU) 2018/1240

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the ‘CS-VIS’ 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.
2. The automated processing referred to in Article 11 of Regulation (EU) 2018/1240 shall enable the verifications provided for in Article 20 of that Regulation and the subsequent verifications of Articles 22 and 26 of that Regulation.
For the purpose of proceeding to the verifications point (i) of Article 20(2) 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 in ETIAS with the data in the VIS, in accordance with Article 11(8) of that Regulation, using the correspondences listed in the table in annex II.

Article 18c
Access to data from VIS by the ETIAS Central Unit

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 in VIS in accordance with Article 11(8) of that Regulation.
2. Where a verification by the ETIAS Central Unit confirms the correspondence between data recorded in the ETIAS application file and data in the ~~EES~~ VIS or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies, ~~without prejudice to Article 24 of Regulation (EU) 2018/1240.~~

Article 18d
Use of VIS for the manual processing by ETIAS National Units

1. Consultation of VIS by ETIAS National Units **referred to in Article 8(1) of Regulation (EU) 2018/1240** shall be done using the same alphanumerical data as those used for the automated processing referred to in Article 18b(2).
2. The ETIAS National Units, ~~designated pursuant to Article 8(1) of Regulation (EU) 2018/1240,~~ shall have access to and may consult VIS, in a read-only format, for the purpose of examining applications for travel authorisation pursuant to Article 8(2) of that Regulation. The ETIAS National Units may consult the data referred to in Articles 9 to 14 of this Regulation.
3. Following an access pursuant to paragraph 1, duly authorised staff of the ETIAS National Units shall ~~only~~ record the result of the assessment ~~and shall record this result~~ **only** in the ETIAS application files.”;

(3) the following article is inserted:

“Article 34a
Keeping of logs

For the consultations listed in Article 18b of this Regulation, a log of each data processing operation carried out within VIS and ETIAS shall be kept in accordance with Article 34 of this Regulation and Article 69 of Regulation (EU) No 2018/1240.”;

(4) the annex is numbered as Annex I and the following annex is added:

“Annex II

Table of correspondences referred to in Article 18b

| Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System | The VIS corresponding data of Article 9(4) of this Regulation against which the ETIAS data should be checked |
|---|---|
| surname (family name) | Surnames |
| surname at birth | surnames at birth (former surname(s)) |
| first name(s) (given name(s)) | first name(s) |
| date of birth | date of birth |
| place of birth | place of birth |
| country of birth | country of birth |
| sex | sex |
| current nationality | current nationality and nationality at birth |
| other nationalities (if any) | current nationality and nationality at birth |
| type of the travel document | type of the travel document |
| number of the travel document | number of the travel document |
| country of issue of the travel document | the authority which issued the travel document |

“

Article 3

Amendment to Regulation (EU) 2017/2226-~~EES~~

Regulation (EU) 2017/2226 is amended as follows:

(1) in Article 6(1), the following point is added:

“(k²⁸) support the objectives of ETIAS established by Regulation (EU) 2018/1240 of the European Parliament and of the Council*.

* 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) the following articles are inserted:

*“Article 8a
Automated process with ETIAS*

1. An automated process, using the secure communication infrastructure of Article 6(2)(d) of Regulation (EU) 2018/1240, shall enable the EES to create or update the entry/exit record or the refusal of entry record of a visa exempt third country national in the EES in accordance with Articles 14, ~~and 17~~ **and 18** of this Regulation.

Where an entry/exit record ~~or a refusal of entry record~~ of a visa exempt third country national is created, the automated process shall enable the Central System of the EES the following:

- (a) to query and import from the ETIAS Central System the information referred to in Article 47(2) of Regulation (EU) 2018/1240, ~~and~~ the application number and the end of validity ~~period~~ **date** of an ETIAS travel authorisation;
- (b) to update the entry/exit record in the EES in accordance with Article 17(2) of this Regulation;
- (c) to update the refusal of entry record in the EES in accordance with Article 18(1)(b) of this Regulation.**

²⁸ 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 (borders and visa), COM(2018) 478 final.

2. An automated process, using the secure communication infrastructure of Article 6(2)(d) of Regulation (EU) 2018/1240, shall enable the EES to process queries received from the ETIAS Central System and to send the corresponding answers in accordance with Articles 11ab and 41(8) of Regulation (EU) 2018/1240. Where necessary, the EES Central System shall record that a notification has to be sent to the ETIAS Central System as soon as an entry/exit record indicating that the applicant having requested revocation of the travel authorisation has left the territory of the Member States.

Article 8b

Interoperability with ETIAS in the meaning of Article 11 of Regulation (EU) 2018/1240

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central System of the EES 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.
2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, the automated processing referred to in Article 11 of Regulation (EU) 2018/1240 shall enable the verifications provided for in Article 20 of that Regulation and the subsequent verifications of Articles 22 and 26 of that Regulation.

For the purpose of proceeding to the verifications referred to in points (g) and (h) of Article 20(2) 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 in ETIAS with the data in the EES, in accordance with Article 11(8) of that Regulation, using the correspondences listed in the table in annex III.

The verifications shall be without prejudice to the specific rules provided for in Article 24(3) of Regulation (EU) No 2018/1240.”;

- (3) in Article 9, the following paragraph 2a is inserted:

“2a. The duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240, shall have access to the EES to consult data in a read-only format.”;

- (4) in Article 17(2) the following second sub-paragraph is added:

“The following data shall also be entered in the entry/exit record:

- (a) the **ETIAS** application number;
- (b) the end of validity period of an ETIAS travel authorisation;
- (c) in case of an **ETIAS** travel authorisation with limited territorial validity, the Member State(s) for which it is valid.”;

(4a) in Article 18(1), point (b) is replaced by the following text:

"(b) for visa-exempt third-country nationals, the alphanumeric data required pursuant to Article 17(1) and (2) of this Regulation":

(5) the following articles are inserted:

“Article 25a

Access to data from the EES by the ETIAS Central Unit

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 data in the EES in accordance with Article 11(8) of that Regulation.
2. Where a verification by the ETIAS Central Unit confirms the correspondence between data recorded in the ETIAS application file and data in the EES or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Article 25b

Use of the EES for the manual processing by ETIAS National Units

1. Consultation of EES by ETIAS National Units referred to in Article 8(1) of Regulation (EU) 2018/1240 shall be done using the same alphanumeric data as those used for the automated processing referred to in Article 8b(2) of this Regulation.
2. The ETIAS National Units shall have access to and may consult the EES, in a read-only format, for the purpose of examining applications for travel authorisation, pursuant to Article 8(2) of that Regulation. The ETIAS National Units may consult the data referred to in Articles 16 to 18 of this Regulation, without prejudice to Article 24 of Regulation (EU) 2018/1240.
3. Following an access pursuant to paragraph 1, duly authorised staff of the ETIAS National Units shall record only the result of the assessment and shall record this result in the ETIAS application files.”;

- (6) Article 28 is replaced by the following:

*“Article 28
Keeping of data retrieved from the EES*

Data retrieved from the EES pursuant to Articles 24, 25, 26 and 27 may be kept in national files and data retrieved from the EES pursuant to Article 25a may be kept in the ETIAS application files only where necessary in an individual case, in accordance with the purpose for which they were retrieved and with relevant Union law, in particular on data protection, and for no longer than strictly necessary in that individual case.”;

- (7) in Article 46(2), the following second subparagraph is added:

“For the consultations listed in Articles 8a, 8b and 25a of this Regulation, a log of each data processing operation carried out within the EES and ETIAS shall be kept in accordance with this Article and Article 69 of Regulation (EU) No 2018/1240.”;

- (8) The following annex is added:

“Annex III

Table of correspondences referred to in Article 8b

| <i>Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System</i> | <i>The EES corresponding data of Article 17(1)(a) of this Regulation against which the ETIAS data should be checked</i> |
|--|--|
| surname (family name) | surnames |
| surname at birth | surnames |
| first name(s) (given name(s)) | first name or names (given names) |
| other names (alias(es), artistic name(s), usual name(s)) | first name or names (given names) |
| date of birth | date of birth |
| sex | sex |
| current nationality | nationality or nationalities |
| other nationalities (if any) | nationality or nationalities |
| type of the travel document | type of the travel document |
| number of the travel document | number of the travel document |
| country of issue of the travel document | the three letter code of the issuing country of the travel document |

“

Article 4

Amendments to Regulation (EU) 2018/1861 ~~{SIS Border}~~

Regulation (EU) No 2018/1861 is amended as follows:

- (1) in Chapter III, the following article is added:

“Article 18a

Keeping of logs for the purpose of the interoperability with ETIAS in the meaning of Article 11 of Regulation (EU) 2018/1240

Logs of each data processing operation carried out within SIS and ETIAS pursuant to Article 36a and 36b shall be kept in accordance with Article 18 of this Regulation and Article 69 of Regulation (EU) No 2018/1240 of the European Parliament and of the Council.*

* 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) in Article 34(1), the following point is added:

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

- (3) the following articles are inserted:

“Article 36a

Access to SIS data by the ETIAS Central Unit

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**. The provisions of Article 36(4) **to**-(8) apply to this access and search.
2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, where a verification by the ETIAS Central Unit confirms the correspondence of the data recorded in the ETIAS application file to an alert in SIS **or where doubts remain**, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Interoperability with ETIAS in the meaning of Article 11 of Regulation (EU) 2018/1240

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.
- 1a. The automated processing referred to in Article 11 of Regulation (EU) 2018/1240 shall enable the verifications provided for in Articles 20, 23, Article 24(6)(c)(ii), Article 41 and Article 54(1)(b) and the subsequent verifications provided for in Articles 22, 23 and 26 of that Regulation.**
2. For the purpose of proceeding to the verifications of Article 20(2)(c), ~~and~~ (m)(ii) ~~and~~ ~~(o)~~, **23 and 54(1)(b)** 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(4) Regulation (EU) 2018/1240, to data in SIS, in accordance with Article 11(8) of that Regulation.
3. Where a new alert referred to in Article 41(3) of Regulation (EU) 2018/1240 is entered in SIS, the Central System 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.”.

CHAPTER III: FINAL PROVISIONS

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

It shall apply from the date determined in accordance with the second paragraph of Article 96(2) of Regulation (EU) 2018/1240.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
