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## INFORMATION NOTE

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From: General Secretariat of the Council  
To: Permanent Representatives Committee/Council

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Subject: Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EU) No 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS)  
– Outcome of the European Parliament's first reading  
(Strasbourg 2 to 5 July 2018)

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## I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure <sup>1</sup>, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

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<sup>1</sup> OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Kinga GAL (EPP, HU), presented a compromise amendment (amendment number 3) to the proposal for a Regulation on behalf of the Committee on Civil Liberties, Justice and Home Affairs. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

## II. VOTE

When it voted on 5 July 2018, the plenary adopted the compromise amendment (amendment number 3) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto<sup>2</sup>.

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

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<sup>2</sup> The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

## **European Travel Information and Authorisation System: Europol tasks \*\*\*I**

**European Parliament legislative resolution of 5 July 2018 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS) (COM(2016)0731 – C8-0466/2016 – 2016/0357B(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0731),
  - having regard to Article 294(2) and Article 88(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0466/2016),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to the decision by the Conference of Presidents on 14 September 2017 to authorise the Committee on Civil Liberties, Justice and Home Affairs to split the above-mentioned Commission proposal and to draw up two separate legislative reports on the basis thereof,
  - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 25 April 2018 to approve that position, in accordance with Article 294(4) 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 (A8-0323/2017),
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.

**Position of the European Parliament adopted at first reading on 5 July 2018 with a view to the adoption of Regulation (EU) 2018/... of the European Parliament and of the Council *amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS)***

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the Functioning of the European Union, and in particular, point (a) of Article 88(2) thereof,

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Acting in accordance with the ordinary legislative procedure<sup>3</sup>,

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<sup>3</sup> Position of the European Parliament of 5 July 2018.

Whereas:

- (1) *Regulation (EU) 2018/... of the European Parliament and of the Council<sup>4+</sup> allocates new tasks to the European Union Agency for Law Enforcement Cooperation (Europol) such as the management of the ETIAS watchlist, the entry of data related to terrorist offences or other serious criminal offences into that watchlist and the provision of opinions following consultation requests by the ETIAS National Units. To implement those tasks, it is therefore necessary to amend Regulation (EU) 2016/794 of the European Parliament and of the Council<sup>5</sup> accordingly.*
- (2) *In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union (TEU) and to the Treaty on the Functioning of the European Union (TFEU), and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*
- (3) *In accordance with Articles 1 and 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.*

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<sup>4</sup> Regulation (EU) 2018/... of the European Parliament and of the Council 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 ..., p. ...).

<sup>+</sup> OJ: Please insert in the text the number of the Regulation in PE-CONS 21/18 (2016/0357 A) and complete the corresponding footnote.

<sup>5</sup> Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (OJ L 135, 24.5.2016, p. 53).

- (4) *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,*

HAVE ADOPTED THIS REGULATION:

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Article I  
Amendments to Regulation (EU) 2016/794

Regulation (EU) 2016/794 is amended as follows:

(1) Article 4(1) is amended as follows:

(a) the following *points are* added:

"(n) manage the ETIAS watchlist *in accordance with Articles 34 and 35 of Regulation (EU) 2018/... of the European Parliament and of the Council*\*+;

(o) *enter data into the ETIAS watchlist related to terrorist offences or other serious criminal offences obtained by Europol, without prejudice to the conditions regulating Europol's international cooperation;*

(p) *provide an opinion following a consultation request referred to in Article 29 of Regulation (EU) 2018/...*++.

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

(b) *the following subparagraph is added:*

“For the purpose of carrying out the task referred to in point (n) of the first subparagraph of this paragraph, Europol’s Management Board shall, after consulting the EDPS, adopt the procedures referred to in Article 35 of Regulation (EU) 2018/... ++.”.

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+ OJ: Please insert in the text the number of the Regulation in PE-CONS 21/18 (2016/0357 A(COD)) and complete the corresponding footnote.

++ OJ: Please insert the number of the Regulation in PE-CONS 21/18 (2016/0357 A(COD))

(2) Article 21 is amended as follows:

(a) the title is replaced by the following:

"Article 21

Access by Eurojust, OLAF and, *only for purposes of ETIAS, by the European **Border** and Coast Guard Agency* to information stored by Europol";

(b) the following paragraph is inserted:

**1a.** Europol shall take all appropriate measures to enable the European **Border** and Coast Guard Agency, within its mandate and for the purposes of Regulation (EU) 2018/...<sup>+</sup>, to have indirect access on the basis of a hit/no hit system to data provided for the purposes of point (j) of Article 20(2) of that Regulation, without prejudice to any restrictions indicated by the Member State, Union body, third country or international organisation providing the information in question, in accordance with Article 19(2) of this Regulation.

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<sup>+</sup> OJ: Please insert the number of the Regulation in PE-CONS 21/18 (2016/0357 A(COD)).



In the case of a hit, Europol shall initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the provider of the information to Europol, and only to the extent that the data generating the hit are necessary for the performance of the European **Border** and Coast Guard Agency tasks related to ETIAS.

Paragraphs 2 to 7 of this Article shall apply accordingly. "



## Article 2

### Entry into force and applicability

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

***This Regulation shall apply from the date determined by the Commission in accordance with Article 88 of Regulation (EU) 2018/...<sup>+</sup>***

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<sup>+</sup> OJ: Please insert the number of the Regulation in PE-CONS 21/18 (2016/0357 A(COD)).

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

Done at ...,

*For the European Parliament*

*For the Council*

*The President*

*The President*

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