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**OUTCOME OF PROCEEDINGS**

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From: General Secretariat of the Council

To: Delegations

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Subject: 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) yyyy/xxx [ECRIS-TCN]

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

- Mandate for negotiations with the European Parliament

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At its meeting on 22 May 2019, the Permanent Representatives Committee agreed on the mandate for negotiations with the European Parliament, as set out in the Annexes.

Changes to the Commission proposals are marked in **bold** and ~~strikethrough~~.

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) yyyy/xxx [ECRIS-TCN]~~ **as regards the establishment of the conditions for accessing other EU information systems for ETIAS purposes**

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 82(1)(d)~~ and Article 87(2)(a) 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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

Whereas<sup>3</sup>:

- (1) Regulation (EU) 2018/1240 of the European Parliament and of the Council<sup>4</sup> 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.
- (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 **of the application files by the ETIAS Central System** referred to in ~~Article 20 of~~ Regulation (EU) 2018/1240, it is necessary to establish the interoperability **between the ETIAS Information System, other EU information systems and Europol data** 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) 2018/1862 (~~SIS Police~~)<sup>5</sup> and (EU) ~~yyyy/xxxx~~ (ECRIS-TCN)<sup>6</sup> 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.

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<sup>3</sup> The variable geometry recitals have been revised by the Council Legal Service.

<sup>4</sup> 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).

<sup>5</sup> 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).

<sup>6</sup> ~~Regulation (EU) YYYY/xxx of the European Parliament and of the Council... (OJ L , , p. ).~~

- (5) In accordance with ~~Article 96~~ of Regulation (EU) 2018/1240, when the recast of Regulation (EU) No 603/2013<sup>7</sup> of the European Parliament and of the Council will be adopted, the necessary consequential amendments will be adopted.
- (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.
- (7) 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.
- (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.
- (9) 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.
- ~~(10) In accordance with Regulation (EU) 2018/xxxx of the European Parliament and of the Council<sup>8</sup> [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.~~

<sup>7</sup> Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

~~<sup>8</sup> [Regulation (EU) yyyy/xx of the European Parliament and of the Council ....(OJ L , , p. )]~~

- (11) 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.
- (12) 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 Council<sup>9</sup>, should be responsible for the design and development phase of the ETIAS Information System.
- (13) This Regulation is without prejudice to Directive 2004/38/EC<sup>10</sup>.
- (14) **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, insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, decide, within a period of six months after the Council has decided on this Regulation, whether it will implement it this proposal, which builds upon the Schengen *acquis*, in its national law. Insofar as its provisions relate to ECRIS-TCN, Denmark is, in accordance with Articles 1 and 2 of Protocol No 22, 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>9</sup> 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).

<sup>10</sup> OJ L 158, 30.4.2004, p. 77.

- (15) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, the United Kingdom is **taking part in** bound by this Regulation, in accordance with Article 5(1) of the Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the TEU Treaty on European Union and to the TFEU, Treaty on the Functioning of the European Union and Article 8(2) of 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*<sup>11</sup>. Insofar as its provisions relate to ECRIS-TCN, the United Kingdom may notify the President of the Council its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 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.~~
- (16) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, Ireland is **taking part in** is bound by this Regulation, in accordance with Article 5(1) of the Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union annexed to the TEU Treaty on European Union and to the TFEU Treaty on the Functioning of the European Union and Article 6(2) of 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*<sup>12</sup>. Insofar as its provisions relate to ECRIS-TCN, Ireland may notify the President of the Council its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 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.~~
- (17) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis*, within the meaning of Article 4(2) of the 2005 Act of Accession. In that respect, the Regulation has to be read in conjunction with Council Decisions 2010/365/EU<sup>13</sup> and 2018/934<sup>14</sup>, which rendered applicable, subject to some restrictions, the provisions of the Schengen *acquis* related to the Schengen Information System in Bulgaria and Romania.~~

<sup>11</sup> OJ L 131, 1. 6. 2000, p. 43.

<sup>12</sup> OJ L 64, 7. 3. 2002, p. 20.

<sup>13</sup> ~~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).~~

<sup>14</sup> ~~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).~~

- (18) With regard to Cyprus and Croatia, ~~insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862~~, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession and Article 4(2) of the 2011 Act of Accession. With respect to Croatia, the Regulation has to be read in conjunction with Council Decision (EU) 2017/733<sup>15</sup>, ~~which rendered applicable, subject to some restrictions, the provisions of the Schengen *acquis* related to the Schengen Information System in Croatia.~~
- (19) As regards Iceland and Norway, this Regulation constitutes, ~~insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862~~, 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 latters' association with the implementation, application and development of the Schengen *acquis*<sup>16</sup> which fall within the area referred to in Article 1, point (G) of Council Decision 1999/437/EC<sup>17</sup>.
- (20) As regards Switzerland, this Regulation constitutes, ~~insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862~~, 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*<sup>18</sup>, which fall within the area referred to in Article 1, point (G) of Council Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA146/EC<sup>19</sup>.

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<sup>15</sup> 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).

<sup>16</sup> OJ L 176, 10.7.1999, p. 36.

<sup>17</sup> 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).

<sup>18</sup> OJ L 53, 27.2.2008, p. 52.

<sup>19</sup> Council Decision 2008/149/JHA146/EC of 28 January 2008 on the conclusion, on behalf of the European **Union 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. 50).

- (21) As regards Liechtenstein, this Regulation constitutes, ~~insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862~~, 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*<sup>20</sup> which fall within the area referred to in Article 1, point (G) of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision ~~2011/350349~~/EU<sup>21</sup>.
- (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.
- (23) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 of the European Parliament and the Council<sup>22</sup>,

HAVE ADOPTED THIS REGULATION:

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<sup>20</sup> OJ L 160, 18.6.2011, p. 21.

<sup>21</sup> Council Decision ~~2011/350349~~/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 **in particular to judicial cooperation in criminal matters and police cooperation** ~~to the abolition of checks at internal borders and movement of persons~~ (OJ L 160, 18.6.2011, p. 19).

<sup>22</sup> 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).



*Article 1*

*Amendments to Regulation (EU) 2018/1862 ~~{SIS-Police}~~*

**Regulation (EU) 2018/1862 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*

Logs of each data processing operation carried out within SIS and ETIAS pursuant to Article 50a and 50b **of this Regulation** 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\*.

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\* 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 44(1), the following point is added:

“(g~~f~~) 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 50a*

*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**. Article 50(4) to (8) of this Regulation shall apply to this access and search.
2. Where a verification by the ETIAS Central Unit **in accordance with Article 22 and 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.

Article 50b

**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.
2. 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.
3. For the purpose of **proceeding to the** verifications referred to in Article 20(2)(a), (d) and (m)(i), ~~and Article 23(1), Article 24(6)(c)(ii) and Article 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(5) Regulation 2018/1240 to data in SIS, in accordance with Article 11(8) of that Regulation.
4. Where a search by ETIAS reports one or several hits pursuant to Article 23(1) of Regulation (EU) 2018/1240, the ETIAS Central System shall, **in accordance with Article 23(2) and (3) of that Regulation**, send an automated notification to the SIRENE Bureau of the Member State that entered the alert ~~in accordance with Article 23(2) and (3) of that Regulation~~.

Where a new alert referred to in Article 41(3) of Regulation (EU) 2018/1240 is entered in SIS on a 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.”.

*Article 2*

[...]<sup>23</sup>

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

~~Regulation yyyy/xxxx (ECRIS-TCN Regulation) is amended as follows<sup>24,25</sup>:~~

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

~~“(d) the conditions under which data included in the ECRIS-TCN system may be used for the purpose of border management in accordance with 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) Article 2 is replaced by the following:~~

~~“*Article 2*  
*Scope*~~

~~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].~~

~~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.”;~~

<sup>23</sup> The amendments to the ECRIS-TCN Regulation have been moved to the text in annex II following the advice of the Council Legal Service.

<sup>24</sup> ~~These amendments take into account the Commission Proposal, COM(2017) 344 final.~~

<sup>25</sup> ~~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.~~

~~(3) Article 3 is amended as follows:~~

~~(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;”;~~

~~(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.~~

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~~\* 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)”;~~

~~(4) Article 5 is amended as follows:~~

~~(a) in paragraph 1, the following point is added:~~

~~“(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).”;~~

~~(b) Paragraph 1a is replaced by the following:~~

~~"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.]”;~~

~~(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].”;~~

(6) in Chapter II, the following article is added:

*“Article 7a*

*Use of the ECRIS-TCN system for ETIAS verifications*

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.~~
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.~~
3. ~~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 and the subsequent verifications of Articles 22 and 26 of that Regulation.~~

~~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 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.”;~~

(7) in Article 8, paragraph 2 is replaced by the following:

~~“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.”;~~

(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].”;~~

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

~~"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 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)."~~

(10) the following article is inserted:

*“Article 29a  
Keeping of logs for the purpose of ETIAS*

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.”;

(11) the following annex is added:

“Annex II

Table of correspondences referred to in Article 7a

<i>Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System</i>	<i>The ECRIS-TCN corresponding data of Article 5(1) of this Regulation in [the CIR] against which the ETIAS data should be checked</i>
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

”]

*Article 3*

***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 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*

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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) yyyy/xxx [ECRIS-TCN]~~ **as regards the establishment of the conditions for accessing other EU information systems for ETIAS purposes**

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 82(1)(d) ~~and Article 87(2)(a)~~ 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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas<sup>3</sup>:

- (1) Regulation (EU) 2018/1240 of the European Parliament and of the Council<sup>4</sup> 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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> The variable geometry recitals have been revised by the Council Legal Service.

<sup>4</sup> 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 **of the application files by the ETIAS Central System** referred to in ~~Article 20~~ of Regulation (EU) 2018/1240, it is necessary to establish the interoperability **between the ETIAS Information System, other EU information systems and Europol data** 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) 2018/1862 (SIS Police)<sup>5</sup> and (EU) yyyy/xxxx (ECRIS-TCN)<sup>6</sup> 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) In accordance with ~~Article 96~~ of Regulation (EU) 2018/1240, when the recast of Regulation (EU) No 603/2013<sup>7</sup> of the European Parliament and of the Council will be adopted, the necessary consequential amendments will be adopted.
- (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.

<sup>5</sup> ~~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).~~

<sup>6</sup> Regulation (EU) YYYY/xxx of the European Parliament and of the Council... (OJ L , , p. ).

<sup>7</sup> Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

- (7) 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.
- ~~(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.~~
- ~~(9) 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.~~
- (10) In accordance with Regulation (EU) 20198/xxxx of the European Parliament and of the Council<sup>8</sup> [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 **any other serious criminal offence listed in the annex to Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years.**
- (11) 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.
- (11a) A hit indicated by the ECRIS-TCN system should not of itself be taken to mean that the third-country national concerned has been convicted in the Member States that are indicated. The existence of previous convictions should only be confirmed based on information received from the criminal records of the Member States concerned.**

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<sup>8</sup> Regulation (EU) yyyy/xx of the European Parliament and of the Council ....(OJ L , , p. )

- (12) 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 Council<sup>9</sup>, should be responsible for the design and development phase of the ETIAS Information System.
- (13) This Regulation is without prejudice to Directive ~~2004/38/EC~~<sup>10</sup>.
- (14) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, Denmark shall, in accordance with Article 4 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, decide, within a period of six months after the Council has decided on this Regulation, whether it will implement this proposal, which builds upon the Schengen acquis, in its national law. Insofar as its provisions relate to ECRIS-TCN, Denmark is, 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.~~
- (15) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, the United Kingdom is bound by this Regulation in accordance with Article 5 of the Protocol on the Schengen acquis integrated into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union and Article 8(2) of 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<sup>11</sup>. Insofar as its provisions relate to ECRIS-TCN The United Kingdom may notify the President of the Council its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 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.~~
- (15a) In accordance with Article 3 and Article 4a(1)<sup>12</sup> 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 and to the Treaty on the Functioning of the European Union, the United Kingdom has notified, by letter of 12 April 2019, its wish to take part in the adoption and application of this Regulation.**

<sup>9</sup> 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).

<sup>10</sup> OJ L 158, 30.4.2004, p. 77.

<sup>11</sup> OJ L 131, 1.6.2000, p. 43.

<sup>12</sup> ~~Wording to be inserted in the case of an act that amends, replaces or repeals (by replacement, as in the case of a recast) a pre-existing act by which the United Kingdom is already bound.~~

- (16) ~~Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, Ireland is bound by this Regulation in accordance with Article 5 of the Protocol on the Schengen acquis integrated into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union and Article 6(2) of 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<sup>13</sup>. Insofar as its provisions relate to ECRIS-TCN, Ireland may notify the President of the Council its wish to take part in the adoption and application of this Regulation, in accordance with Article 3 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.~~
- (16a) In accordance with Articles 1 and 2 and Article 4a(1)<sup>14</sup> 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 and to the Treaty on the Functioning of the European Union, 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.**
- ~~(17) Insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis, within the meaning of Article 4(2) of the 2005 Act of Accession. In that respect, the Regulation has to be read in conjunction with Council Decisions 2010/365/EU<sup>15</sup> and 2018/934<sup>16</sup>, which rendered applicable, subject to some restrictions, the provisions of the Schengen acquis related to the Schengen Information System in Bulgaria and Romania.~~
- ~~(18) With regard to Cyprus and Croatia, insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, this Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession and Article 4(2) of the 2011 Act of Accession. With respect to Croatia, the Regulation has to be read in conjunction with Council Decision (EU) 2017/733<sup>17</sup>, which rendered applicable, subject to some restrictions, the provisions of the Schengen acquis related to the Schengen Information System in Croatia.~~

<sup>13</sup> OJ L 64, 7. 3. 2002, p. 20.

<sup>14</sup> Wording to be inserted in the case of an act that amends, replaces or repeals (by replacement, as in the case of a recast) a pre-existing act by which Ireland is already bound.

<sup>15</sup> 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).

<sup>16</sup> 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).

<sup>17</sup> 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).

- (19) — As regards Iceland and Norway, this Regulation constitutes, insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, 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*<sup>18</sup> which fall within the area referred to in Article 1, point (G) of Council Decision 1999/437/EC<sup>19</sup>.
- (20) — As regards Switzerland, this Regulation constitutes, insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, 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*<sup>20</sup>, which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>21</sup>.
- (21) — As regards Liechtenstein, this Regulation constitutes, insofar as its provisions relate to SIS as governed by Regulation (EU) 2018/1862, 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*<sup>22</sup> which fall within the area referred to in Article 1, point (G), of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>23</sup>.

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<sup>18</sup> — OJ L 176, 10.7.1999, p. 36.

<sup>19</sup> — 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).

<sup>20</sup> — OJ L 53, 27.2.2008, p. 52.

<sup>21</sup> — 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).

<sup>22</sup> — OJ L 160, 18.6.2011, p. 21.

<sup>23</sup> — 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).

- (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.
- (23) The European Data Protection Supervisor was consulted, in accordance with Article 41(2) of Regulation (EU) 2018/1725 of the European Parliament and the Council<sup>24</sup>,

HAVE ADOPTED THIS REGULATION:

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<sup>24</sup> 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).

*Article 1*

[...]<sup>25</sup>

***Amendments to Regulation (EU) 2018/1862 [SIS Police]***

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

*“Article 18a*

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

Logs of each data processing operation carried out within SIS and ETIAS pursuant to Article 50a and 50b 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\*.

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\* 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 44(1), the following point is added:

“(f) 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 50a*

***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. Article 50(4) to (8) of this Regulation shall apply to this access and search.
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.

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<sup>25</sup> The amendments to Regulation (EU) 2018/1862 have been moved to annex I following the advice of the Council Legal Service.



*Article 50b*

***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.~~
  2. ~~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.~~
  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.~~
  4. ~~Where a search by ETIAS reports one or several hits pursuant to Article 23(1) of Regulation (EU) 2018/1240, the ETIAS Central System shall send an automated notification to the SIRENE Bureau of the Member State that entered the alert in accordance with Article 23(2) and (3) of that Regulation.~~
- ~~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.”.~~

*Article 2*

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

Regulation yyyy/xxxx (ECRIS-TCN Regulation) is amended as follows:

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

“(d) the conditions under which data included in the ECRIS-TCN system may be used **by the ETIAS Central Unit in order to support the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose security risks** ~~for the purpose of border management~~ in accordance with Regulation (EU) 2018/1240 of the European Parliament and of the Council\*.

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\* 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) Article 2 is replaced by the following:

*“Article 2  
Scope*

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. **This Regulation as well as for the purposes of border management [and contributing to facilitating and assisting in the correct identification of persons] in accordance with this Regulation and with Regulation (EU) 2019/xxxx [Interoperability Police]. This Regulation also supports the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose security risks. With the exception of point (b)(ii) of Article 5(1), 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 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.”;~~

(3) in Article 3, point 6 is replaced by the following amended as follows:

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

~~“(f6) 'competent authorities' means the central authorities and the Union bodies (Eurojust, Europol, the EPPO European Public Prosecutor's Office, and the ETIAS Central Unit established in accordance with Article 7 of Regulation (EU) 2018/1240 within the European Border and Coast Guard Agency), which are competent to access or query the ECRIS-TCN system in accordance with this Regulation;”;~~

(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.~~

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\* ~~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)”;~~

(4) Article 5 is amended as follows:

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

“(c) ~~where applicable,~~ a flag indicating, **for the purpose of Regulation (EU) 2018/1240**, that the ~~person~~ **third-country national** concerned has been convicted for a terrorist offence or **any other serious criminal offence listed in the annex to Regulation (EU) 2018/1240 if they 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).”;

(b) paragraph 1a is replaced by the following:

"1a. ~~{The CIR shall contain the data referred to in point (b) of paragraph 1 and the following data of point (a) of paragraph 1 points (b) and (c) of paragraph 1 and in paragraph 2, as well as the following data referred to in point (a) of paragraph 4: 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, if applicable; and where available pseudonyms(s) and/or aliases name(s), where available, the type and number of the person's travel document(s), as well as the name of the issuing authority. The CIR may contain the data referred to in paragraph 3 as well as, in the cases referred to in point (c) of paragraph 1, the code of the convicting Member State(s). The remaining ECRIS-TCN data shall be stored in the ECRIS-TCN central system.}~~”;

(c) the following paragraph is added:

"7. **Flags and the code of 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 Article 20(2)(n) of Regulation (EU) 2018/1240 where hits are identified following the automated processing referred to in Article 11(1) of that Regulation.**

**Without prejudice to the previous sub-paragraph, these flags and the code of convicting Member State(s) as referred to in point (c) of paragraph 1 shall not be visible for any other authority than the central authority of the convicting Member State having created the flagged record.”;**

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

“~~5~~ 7. In the event of a hit, the Central System ~~{for 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 **17(3)** ~~16(4)~~ of this Regulation, ~~and or to facilitateing and assistinng in the correct identification of persons registered in the ECRIS-TCN system}~~, **or for the purposes of border management to support the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose security risks.”;**

(6) in Chapter II, the following article is added:

*“Article 7a*

*Use of the ECRIS-TCN system for ETIAS verifications*

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. **The data may only be used for the purpose of verification by the ETIAS Central Unit pursuant to Article 22 of Regulation (EU) 2018/1240 and for the purpose of consultation of the national criminal records by the ETIAS National Units pursuant to Article 25a(2) of that Regulation. National criminal records shall be consulted prior to the assessment and decision pursuant to Article 26 of Regulation (EU) 2018/1240 and, if applicable, prior to the assessment and opinion pursuant to Article 28 of that Regulation.**
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.

3. 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 and the subsequent verifications of Articles 22 and 26 of that Regulation.

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 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.”;

- (7) in Article 8, paragraph 2 is replaced by the following:

“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 **data**, 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 **any other form of serious criminal offence 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~~ **be done** automatically, where possible, and in any event no later than one month after the expiry of the retention period.”;

- (8) in Article ~~24~~ ~~22~~, paragraph 1 is replaced by the following:

“ 1. The data **entered 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, and or to facilitate~~ ~~ing and assisting~~ in the correct identification of persons registered in the ECRIS-TCN system], ~~or for the purposes of border management to support the ETIAS objectives of identifying whether the presence of ETIAS applicants in the territory of the Member States would pose security risks;~~”;

- (9) in Article ~~32(3)~~ ~~30(4)~~, the second subparagraph is replaced by the following:

"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 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). **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.**"

(10) the following article is inserted:

*“Article 29a  
Keeping of logs for the purpose of ETIAS*

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.”;

(11) the following annex is added:

“Annex II

Table of correspondences referred to in Article 7a

<i>Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System</i>	<i>The ECRIS-TCN corresponding data of Article 5(1) of this Regulation in {the CIR} against which the ETIAS data should be checked</i>
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 <del>identification</del> <b>travel</b> documents
number of the travel document	number of the person’s <del>identification</del> <b>travel</b> documents
country of issue of the travel document	name of the issuing authority

”

*Article 2a*

*Amendments to Regulation (EU) 2019/xxxx [interoperability Police]*

**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 of paragraph 1, the data referred to in Article 5(1)(c) of Regulation (EU) 2019/xxxx (ECRIS-TCN). The data referred to in Article 5(1)(c) shall only be accessible as referred to in Article 5(7) of Regulation (EU) 2019/xxx [ECRIS-TCN]"**.

*Article 3*

*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 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*

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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, Regulation (EU) 2018/1240 and Regulation (EU) 2018/1861~~ **as regards the establishment of the conditions for accessing other EU information systems for ETIAS purposes**

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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas<sup>3</sup>:

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> The variable geometry recitals have been revised by the Council Legal Service.

- (1) Regulation (EU) 2018/1240 of the European Parliament and of the Council<sup>4</sup> 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.
- (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 **of the application files by the ETIAS Central System** referred to in ~~Article 20~~ of Regulation (EU) 2018/1240, it is necessary to establish the interoperability **between the ETIAS Information System, other EU information systems and Europol data** 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 767/2008<sup>5</sup>, (EU) 2017/2226<sup>6</sup>, (EU) 2018/1861 ~~(SIS border)~~<sup>7</sup>, 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.

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<sup>4</sup> 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).

<sup>5</sup> 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).

<sup>6</sup> 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).

<sup>7</sup> 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).

- (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.
- (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. **Member States' access by the ETIAS National Units to the other EU Information Systems should be in accordance with the participation in the respective legal instruments.** 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 Decisions<sup>8</sup> on the application of the provisions of the Schengen acquis relating to the Schengen Information System and the Visa Information System are relevant.
- (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 Council<sup>9</sup>, should be responsible for the design and development phase of the ETIAS Information System.
- (12) This Regulation is without prejudice to Directive 2004/38/EC<sup>10</sup>.

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<sup>8</sup> 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).

<sup>9</sup> 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).

<sup>10</sup> OJ L 158, 30.4.2004, p. 77.

- (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/EC<sup>11</sup>; 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/EC<sup>12</sup>; 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*<sup>13</sup> which fall within the area referred to in Article 1, points A, ~~and~~ B, C and G of Council Decision 1999/437/EC<sup>14</sup>.

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<sup>11</sup> 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).

<sup>12</sup> 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).

<sup>13</sup> OJ L 176, 10.7.1999, p. 36.

<sup>14</sup> 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*<sup>15</sup> which fall within the area referred to in Article 1, points A, ~~and B, C and G~~ of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>16</sup> ~~and with Article 3 of Council Decision 2008/149/JHA~~<sup>17</sup>.
- (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*<sup>18</sup> which fall within the area referred to in Article 1, points A, ~~and B, C and G~~ of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>19</sup> ~~and with Article 3 of Council Decision 2011/349/EU~~<sup>20</sup>.

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<sup>15</sup> OJ L 53, 27.2.2008, p. 52.

<sup>16</sup> 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).

<sup>17</sup> ~~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).~~

<sup>18</sup> OJ L 160, 18.6.2011, p. 21.

<sup>19</sup> 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).

<sup>20</sup> ~~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/EU](#)<sup>21</sup>, [\(EU\) 2017/733](#)<sup>22</sup>, [\(EU\) 2017/1908](#)<sup>23</sup> and [\(EU\) 2018/934](#)<sup>24</sup>.
- (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 Council<sup>25</sup>,

HAVE ADOPTED THIS REGULATION:

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<sup>21</sup> 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).

<sup>22</sup> 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).

<sup>23</sup> 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).

<sup>24</sup> 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).

<sup>25</sup> 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}~~*

**Regulation (EU) No 2018/1240 is amended as follows:**

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

“(283) ‘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<sup>\*</sup>) support the objectives of the EES.”;

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\* ~~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 is amended as follows (3), the following sub-paragraphs are added:~~

**(a) in paragraph 2, the following point is added:**

“(da) **a secure communication channel between the ETIAS Central System and the EES Central System;**”;



**(b) the following sub-paragraphs are added in paragraph 3:**

“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 **Article 17(1) of Regulation Interoperability.**] **For the purpose of this Regulation, until the CIR is available, that shared identity repository shall be considered as the CIR.**

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.”;

**(3a) in Article 7(2), point (a) is replaced by the following:**

**"(a) in cases where the automated application process has reported a hit, verifying in accordance with Article 22 whether the applicant’s personal data correspond to the personal data of the person having triggered that hit in the ETIAS Central System, any of the EU information systems that are consulted, Europol data, any of the Interpol databases referred to in Article 12, or the specific risk indicators referred to in Article 33, and where a correspondence is confirmed or where doubts remain, launching the manual processing of the application as referred to in Article 26;"**

(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) 20198/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]. **For the purpose of this Regulation, during that transitional period, that tool shall be considered as the ESP.**

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), (ab),(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;
- (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 (o), 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 ~~(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) 20198/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;
  - (ea) country 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 **of the automated processing** 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 **reference number in the queried EU information system**~~unique identification number used in the source of the data~~ **of the record** 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. **Those data shall only be accessible and visible by the ETIAS Central Unit where the ETIAS Central System is not able to identify the Member State responsible.**

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\* 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 **channel infrastructure** of Article 6(2)(da) 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.”;

(5a) 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 channel of Article 6(2)(da) 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 self-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.”;**

~~(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) is amended as follows, the following point is added:

(a) the first subparagraph is replaced by the following:

**"2. The ETIAS Central System shall launch a query by using the ESP to compare the relevant data referred to in points (a), (aa), (b), (c), (d), (f), (g), (j), (k) and (m) of Article 17(2) and in Article 17(8) to the data present in a record, file or alert registered in the ETIAS Central System, SIS, EES, VIS, Eurodac, ECRIS-TCN, Europol data and in the Interpol databases."**

(b) in the second subparagraph, 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 and flagged in accordance with Article 5(1)(c) of Regulation (EU) 2019/xxxx [ECRIS-TCN]. The data may only be used for the purpose of verification by the ETIAS Central Unit pursuant to Article 22 of this Regulation and for the purpose of consultation of the national criminal records by the ETIAS National Units pursuant to Article 25a(2) of this Regulation. National criminal records shall be consulted prior to the assessment and decision pursuant to Article 26 of this Regulation and, if applicable, prior to the assessment and opinion pursuant to Article 28 of this Regulation."**

(8) ~~in~~ Article 22 is amended as follows:

(a) paragraph 2 is replaced by the following:

**"2. When consulted, the ETIAS Central Unit shall have access to the application file and any linked application files, as well as to all the hits triggered during automated processing pursuant to Article 20(2), (3) and (5) and to the information identified by the ETIAS Central System under Article 20(7) and (8)."**

(b) point (b) of paragraph (3) is replaced by the following:

**"(b) the data present in the ETIAS Central System;"**

(c) 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 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 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.";

(ba) **paragraph 4 is replaced by the following:**

**“4. The ETIAS Central System shall add a reference to any hit obtained pursuant to paragraph 1 to the application file. That reference shall only be visible to and accessible by the ETIAS Central Unit and the SIRENE Bureau notified in accordance with paragraph 3, unless other limitations are provided for in this Regulation.”;**

(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) in Article 25(1), the last subparagraph is replaced by the following:

**“For the purposes of points (a) and (c) of the first subparagraph, hits triggered by data not entered or supplied by a Member State shall not be taken into account in order to identify the Member State responsible. Where the manual processing of an application is not triggered by data entered or supplied by a Member State, the Member State responsible shall be the Member State of first intended stay. Where the manual processing of an application is triggered by data entered in Europol data and where the Member State of first intended stay does not participate to Regulation (EU) 2016/794, the Commission shall, by means of implementing acts, adopt detailed rules on the determination of the Member State responsible. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 90(2).”;**

(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, **the duly authorised staff of the 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) **the data referred to in Article 20(2) processed for the purposes of Articles 24, and 25 and 26 of the SIS-Regulation (EU) No 2018/1861 (Border checks);**
  - (d) **the data referred to in Article 20(3) processed for the purposes of Articles 26; 32, 34, 36 and Article 38(2)(k) and (l), of the SIS-Regulation (EU) No 2018/1862 (Police);**
2. **Inssofar as the hit results from the verification pursuant to Article 20(2)(n), the duly authorised staff of the ETIAS National Units shall also have access directly or indirectly, in accordance with national law, to the relevant data from the national criminal records registers of their own Member State in order to obtain the information on third-country nationals and stateless persons convicted for a terrorist offence or any other serious criminal offence listed in the annex to this Regulation, 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).”;

**(11a) in Article 28(3), a third subparagraph is inserted:**

**"For the purpose of the manual processing pursuant to Article 26 of this Regulation, such opinion shall only be visible by the ETIAS National Unit of the Member State consulted and by the ETIAS National Unit of the Member State responsible."**;

(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;”;**

**(12b) in Article 64, a new paragraph is added:**

**"7. The right of access is without prejudice to Article 53 of Regulation (EU) 2018/1861 and Article 67 of Regulation (EU) 2018/1862."**;

**(12c) in Article 73(3), the third subparagraph is replaced by the following:**

**“eu-LISA shall develop and implement the ETIAS Central System, including the ETIAS watchlist, the NUIs, the communication infrastructure and the secure communication channel between the ETIAS Central System and the EES Central System as soon as possible after the entry into force of this Regulation and the adoption by the Commission of:**

- (a) the measures provided for in Articles 6(4), 16(10), 17(9), Article 31, Articles 35(7), 45(2), 54(2), 74(5), 84(2), 92(8); and**
- (b) the measures adopted in accordance with the examination procedure referred to in Article 90(2) necessary for the development and technical implementation of the ETIAS Central System, the NUIs, the communication infrastructure, the secure communication channel between the ETIAS Central System and the EES Central System and the carrier gateway, in particular implementing acts for:**
  - (i) accessing the data in accordance with Articles 22 to 29 and Articles 33 to 53;**
  - (ii) amending, erasing and advance erasure of data in accordance with Article 55;**
  - (iii) keeping and accessing the logs in accordance with Article 45 and Article 69;**
  - (iv) performance requirements;**
  - (v) specifications for technical solutions to connect central access points in accordance with Articles 51 to 53.”;**

(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) **and (10)**, 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) **in Article 96, the following paragraph is amended as follow inserted as the third paragraph:**

**"Article 11a shall apply from [the entry into force of this amending Regulation]"**.

~~“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 **the purposes of** consulting the data shall be reserved exclusively ~~for~~ the duly authorised staff of **the ETIAS Central Unit, of 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 **Union EU agencies bodies** which are competent for the purposes laid down in [Articles 20 and ~~Article 21 of the~~ Regulation 20198/xx on interoperability]. **Such access shall be limited according** to the extent that the data are required for the performance of their tasks ~~for in accordance with~~ those purposes, and proportionate to the objectives pursued.”;

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\* 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 **in accordance with Article 22 of Regulation (EU) 2018/1240** confirms the correspondence between data recorded in the ETIAS application file and data in the ~~EES-VIS~~ 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

<b>Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System</b>	<b>The VIS corresponding data of Article 9(4) of this Regulation against which the ETIAS data should be checked</b>
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:

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

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\* 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 **channel infrastructure** of Article 6(2)(da) 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.**

2. **An automated process, using the secure communication channel of Article 6(2)(da) 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 **in accordance with Article 22 of Regulation (EU) 2018/1240** 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 alphanumerical 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.\*

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\* 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:

“(hg) 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 **in accordance with Article 22 of Regulation (EU) 2018/1240** 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, Article 24(6)(c)(ii), Article 41 and Article 54(1)(b) and the subsequent verifications provided for in Articles 22 and 26 of that Regulation.**
2. For the purpose of proceeding to the verifications of Article 20(2)(c), ~~and (m)(ii) and (o)~~, **Article 24(6)(c)(ii) 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 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*

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