



2016/0357(COD)

8.6.2017

*****I**

DRAFT REPORT

on the proposal for a regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624
(COM(2016)0731 – C8-0466/2016 – 2016/0357(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Kinga Gál

Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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

CONTENTS

	Page
DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION.....	5
EXPLANATORY STATEMENT.....	79

DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399, (EU) 2016/794 and (EU) 2016/1624

(COM(2016)0731 – C8-0466/2016 – 2016/0357(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2016)0731),
 - having regard to Article 294(2) and Article 77(2)(b) and (d), Article 87(2)(a) and Article 88(2)(a) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0466/2016),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 27 April 2017¹,
 - having regard to the opinion of the Committee of the Regions of ...²,
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs and the opinions of the Committee on Foreign Affairs and the Committee on Budgets (A8-0000/2017),
1. Adopts its position at first reading hereinafter set out;
 2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
 4. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Citation 4

¹ Not yet published in the Official Journal.

² OJ C xx of ..., p. xx.

Text proposed by the Commission

Amendment

After consulting the European Data Protection Supervisor,

deleted

Or. en

Justification

The opinion of the EDPS is referred to in recital 46.

Amendment 2

Proposal for a regulation

Recital 9

Text proposed by the Commission

Amendment

(9) The ETIAS should establish a travel authorisation for third country nationals exempt from the requirement to be in possession of a visa when crossing the external borders ('the visa requirement') enabling to determine whether their presence in the territory of the Member States does not pose an irregular migration, security or public health risk. Holding a valid travel authorisation should be a new entry condition for the territory of the Member States, however mere possession of a travel authorisation should not confer an automatic right of entry.

(9) The ETIAS should establish a travel authorisation for third country nationals exempt from the requirement to be in possession of a visa when crossing the external borders ('the visa requirement') enabling to determine whether their presence in the territory of the Member States does not pose an irregular migration, security or public health risk. ***A travel authorisation therefore constitutes a decision indicating that there are no factual indications or reasonable grounds to conclude that the presence of a person on the territory of the Member States poses such risks. As such a travel authorisation is in its nature distinct from a visa as it does not require more information or place a heavier burden on applicants than a visa does.*** Holding a valid travel authorisation should be a new entry condition for the territory of the Member States, however mere possession of a travel authorisation should not confer an automatic right of entry.

Or. en

Amendment 3

Proposal for a regulation Recital 29

Text proposed by the Commission

(29) Issued travel authorisations should be annulled or revoked as soon as it becomes evident that the conditions for issuing it were not or are no longer met. In particular, when a new SIS alert is created for a refusal of entry or for a reported lost or stolen travel document, the SIS should inform the ETIAS which should verify whether this new alert corresponds to a valid travel authorisation. In such a case, the ETIAS National Unit of the Member State having created the alert should be immediately informed and revoke the travel authorisation. Following a similar approach, new elements introduced in the ETIAS watchlist shall be compared with the application files stored in the ETIAS in order to verify whether this new element corresponds to a valid travel authorisation. In such a case, the ETIAS National Unit of the Member State *of first entry* should assess the hit and, where necessary, revoke the travel authorisation. A possibility to revoke the travel authorisation at the request of the applicant should also be provided.

Amendment

(29) Issued travel authorisations should be annulled or revoked as soon as it becomes evident that the conditions for issuing it were not or are no longer met. In particular, when a new SIS alert is created for a refusal of entry or for a reported lost or stolen travel document, the SIS should inform the ETIAS which should verify whether this new alert corresponds to a valid travel authorisation. In such a case, the ETIAS National Unit of the Member State having created the alert should be immediately informed and revoke the travel authorisation. Following a similar approach, new elements introduced in the ETIAS watchlist shall be compared with the application files stored in the ETIAS in order to verify whether this new element corresponds to a valid travel authorisation. In such a case, the ETIAS National Unit of the *responsible* Member State should assess the hit and, where necessary, revoke the travel authorisation. A possibility to revoke the travel authorisation at the request of the applicant should also be provided.

Or. en

Amendment 4

Proposal for a regulation Recital 31

Text proposed by the Commission

Amendment

(31) Prior to boarding, air and sea carriers, ***as well as carriers transporting groups overland by coach should have the obligation to verify if travellers have all the travel documents required for entering the territory of the Member States pursuant to the Schengen Convention²⁵. This should include verifying*** that travellers are in possession of a valid travel authorisation. The ETIAS file itself should not be accessible to carriers. A secure internet access, including the possibility using mobile technical solutions, should allow carriers to proceed with this consultation using travel document data.

(31) Prior to boarding, air and sea carriers should ***verify*** that travellers are in possession of a valid travel authorisation. The ETIAS file itself should not be accessible to carriers. A secure internet access, including the possibility using mobile technical solutions, should allow carriers to proceed with this consultation using travel document data.

²⁵ ***Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.***

Or. en

Justification

For reasons of legal clarity and transparency it should be clear which carriers have to fulfill the requirements of this Regulation. These should be only air and sea carriers. Carriers transporting groups overland by coach as mentioned should be excluded given the heavy burden which would be put on these carriers often providing only occasional trips to the Member States' territory.

Amendment 5

Proposal for a regulation Recital 31 a (new)

Text proposed by the Commission

Amendment

(31a) In order to avoid unnecessary costs carriers should be able to connect to

ETIAS, EES and similar systems via a unique entry point. They should receive a single answer as to whether the passenger may be transported to the territory of the Member States on the basis of advance passenger data sent by carriers.

Or. en

Amendment 6

Proposal for a regulation

Recital 32

Text proposed by the Commission

(32) In order to comply with the revised conditions for entry, border guards should check whether the traveller is in possession of a valid travel authorisation. Therefore, during the standard border control process, the border guard should electronically read the travel document data. This operation should trigger a query to different databases as provided under the Schengen Border Code including a query to ETIAS which should provide the up-to-date travel authorisation status. The ETIAS file itself should not be accessible to the border guard **for border controls**. If there is no valid travel authorisation, the border guard should refuse entry and should complete the border control process accordingly. If there is a valid travel authorisation, the decision to authorise or refuse entry should be taken by the border guard.

Amendment

(32) In order to comply with the revised conditions for entry, border guards should check whether the traveller is in possession of a valid travel authorisation. Therefore, during the standard border control process, the border guard should electronically read the travel document data. This operation should trigger a query to different databases as provided under the Schengen Border Code including a query to ETIAS which should provide the up-to-date travel authorisation status. The ETIAS file itself should not be accessible to the border guard **doing the first line border check. It should, however, be accessible during second line checks**. If there is no valid travel authorisation, the border guard should refuse entry and should complete the border control process accordingly. If there is a valid travel authorisation, the decision to authorise or refuse entry should be taken by the border guard.

Or. en

Amendment 7

Proposal for a regulation Recital 34

Text proposed by the Commission

(34) Access to the information contained in ETIAS is necessary to prevent, detect and investigate terrorist offences as referred to in **Council Framework Decision 2002/475/JHA**²⁶ or other serious criminal offences as referred to in Council Framework Decision 2002/584/JHA²⁷. In a specific investigation and in order to establish evidence and information related to a person suspected of having committed a crime or a victim of a crime, law enforcement authorities may need access to the data generated by ETIAS. The data stored in ETIAS may also be necessary to identify the perpetrator of a terrorist offence or other serious criminal offences, especially when urgent action is needed. Access to the ETIAS for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the private life of individuals and to protection of personal data of persons whose personal data are processed in the ETIAS. Therefore, the data in ETIAS should be retained and made available to the designated authorities of the Member States and the European Police Office ('Europol'), subject to the strict conditions set out in this Regulation in order for such access to be limited to what is strictly necessary for the prevention, detection and investigation of terrorist offences and serious criminal offences in accordance with the requirements notably laid down in the jurisprudence of the Court, in particular in the Digital Rights Ireland case²⁸.

²⁶ **Council Framework Decision**

Amendment

(34) Access to the information contained in ETIAS is necessary to prevent, detect and investigate terrorist offences as referred to in **Directive (EU) 2017/541**²⁶ or other serious criminal offences as referred to in Council Framework Decision 2002/584/JHA²⁷. In a specific investigation and in order to establish evidence and information related to a person suspected of having committed a crime or a victim of a crime, law enforcement authorities may need access to the data generated by ETIAS. The data stored in ETIAS may also be necessary to identify the perpetrator of a terrorist offence or other serious criminal offences, especially when urgent action is needed. Access to the ETIAS for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences constitutes an interference with the fundamental rights to respect for the private life of individuals and to protection of personal data of persons whose personal data are processed in the ETIAS. Therefore, the data in ETIAS should be retained and made available to the designated authorities of the Member States and the European Police Office ('Europol'), subject to the strict conditions set out in this Regulation in order for such access to be limited to what is strictly necessary for the prevention, detection and investigation of terrorist offences and serious criminal offences in accordance with the requirements notably laid down in the jurisprudence of the Court, in particular in the Digital Rights Ireland case²⁸.

²⁶ **Directive (EU) 2017/541 of the**

2002/475/JHA of 13 June 2002 on combatting terrorism (OJ L 164, 22.6.2002 p.6).

²⁷ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member State (OJ L 190, 18.7.2002, p. 1).

²⁸ Judgment of the Court (Grand Chamber) of 8 April 2014 in joined cases C-293/12 and C-594/12 Digital Rights Ireland Ltd, ECLI:EU:C:2014:238.

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).

²⁷ Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member State (OJ L 190, 18.7.2002, p. 1).

²⁸ Judgment of the Court (Grand Chamber) of 8 April 2014 in joined cases C-293/12 and C-594/12 Digital Rights Ireland Ltd, ECLI:EU:C:2014:238.

Or. en

Amendment 8

Proposal for a regulation Recital 35

Text proposed by the Commission

(35) In particular, access to ETIAS data for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences should only be granted following a reasoned request by the competent authorities giving reasons for its necessity. Member States should ensure that any such request for access to data stored in ETIAS be the subject of a prior review by ***a court or by an authority providing guarantees of full independence and impartiality, and which is free from any direct or indirect external influence.*** However, in situations of extreme urgency, it can be crucial for the competent authorities to obtain immediately personal data necessary for preventing the commission of a serious crime or so that its perpetrators can be prosecuted. In such cases it should be accepted that the review

Amendment

(35) In particular, access to ETIAS data for the purpose of preventing, detecting or investigating terrorist offences or other serious criminal offences should only be granted following a reasoned request by the competent authorities giving reasons for its necessity. Member States should ensure that any such request for access to data stored in ETIAS be the subject of a prior review by ***an independent central access point which checks whether the conditions to request access to the ETIAS Central System are met in the concrete case at hand.*** However, in situations of extreme urgency, it can be crucial for the competent authorities to obtain immediately personal data necessary for preventing ***an imminent danger associated with a terrorist offense,*** the commission of a serious crime or so that its perpetrators

of the personal data obtained from ETIAS takes place as swiftly as possible after access to such data has been granted to the competent authorities.

can be prosecuted. In such cases it should be accepted that the review of the personal data obtained from ETIAS takes place as swiftly as possible after access to such data has been granted to the competent authorities.

Or. en

Justification

It is suggested to use the system of central access points as in the case of VIS, Eurodac and EES instead of entrusting the task of the central access point to the ETIAS National Unit. As in the case of the other systems the central access point would verify whether the conditions for providing access are met.

Amendment 9

Proposal for a regulation

Recital 37

Text proposed by the Commission

Amendment

(37) The ETIAS National Units should act as the central access point and should verify that the conditions to request access to the ETIAS Central System are fulfilled in the concrete case at hand.

deleted

Or. en

Justification

It is suggested to use the system of central access points as in the case of VIS, Eurodac and EES instead of entrusting the task of the central access point to the ETIAS National Unit. As in the case of the other systems the central access point would verify whether the conditions for providing access are met.

Amendment 10

Proposal for a regulation

Recital 46

Text proposed by the Commission

(46) "(...) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on ... "

Amendment

(46) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 and delivered an opinion on **6 March 2017**.

Or. en

Amendment 11

Proposal for a regulation

Recital 47

Text proposed by the Commission

(47) Strict access rules to the ETIAS Central System and the necessary safeguards should be established. It is also necessary to provide for individuals' rights of access, **correction, deletion** and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities.

Amendment

(47) Strict access rules to the ETIAS Central System and the necessary safeguards should be established. It is also necessary to provide for individuals' rights of access, **rectification, restriction, blocking, erasure** and redress, in particular the right to a judicial remedy and the supervision of processing operations by public independent authorities.

Or. en

Amendment 12

Proposal for a regulation

Recital 55

Text proposed by the Commission

(55) The revenue generated by the payment of travel authorisation fees should be assigned to cover the recurring operational and maintenance costs of the ETIAS Information System, of the ETIAS Central Unit and of the ETIAS National

Amendment

(55) The revenue generated by the payment of travel authorisation fees should be assigned to cover the recurring operational and maintenance costs of the ETIAS Information System, of the ETIAS Central Unit and of the ETIAS National

Units. In view of the specific character of the system, it is appropriate to treat the revenue as *external* assigned revenue.

Units. In view of the specific character of the system, it is appropriate to treat the revenue as *internal* assigned revenue.

Or. en

Amendment 13

Proposal for a regulation Recital 56 a (new)

Text proposed by the Commission

Amendment

(56a) This Regulation respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union.

Or. en

Justification

The text suggested is a standard recital which is missing here.

Amendment 14

Proposal for a regulation Article 2 – paragraph 2 – point h a (new)

Text proposed by the Commission

Amendment

(ha) third country nationals exercising mobility in accordance with Directive 2014/66/EU of the European Parliament and of the Council^{1a} or Directive (EU) 2016/801 of the of the European Parliament and of the Council^{1b}.

^{1a} Directive 2014/66/EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals in the

framework of an intra-corporate transfer (OJ L 157, 27.5.2014, p. 1).

^{1b} Directive (EU) 2016/801 of the European Parliament and of the Council of 11 May 2016 on the conditions of entry and residence of third-country nationals for the purposes of research, studies, training, voluntary service, pupil exchange schemes or educational projects and au pairing (OJ L 132, 21.5.2016, p. 21).

Or. en

Justification

As in the case of the Entry/Exit System third country nationals covered by the Directives on intra-corporate transfers as well as students and researchers should not fall under the scope of ETIAS.

Amendment 15

Proposal for a regulation

Article 3 – paragraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) ‘second line check’ means second line check as defined in Article 2(13) of Regulation (EU) 2016/399;

Or. en

Amendment 16

Proposal for a regulation

Article 3 – paragraph 1 – point d

Text proposed by the Commission

Amendment

(d) 'travel authorisation' means a decision issued in accordance with this Regulation indicating that there are no

(d) 'travel authorisation' means a decision issued in accordance with this Regulation indicating that there are no

factual indications or reasonable grounds to conclude that the presence of the person on the territory of the Member States poses an irregular migration, security or public health risk **and which is a requirement for third country nationals referred to in Article 2 to fulfil the entry condition laid down in Article 6(1)(b) of Regulation (EU) 2016/399.**

factual indications or reasonable grounds to conclude that the presence of the person on the territory of the Member States poses an irregular migration, security or public health risk;

Or. en

Justification

The definition should not contain “rules”. These are to be included in the Articles of the Regulation.

Amendment 17

Proposal for a regulation Article 3 – paragraph 1 – point h a (new)

Text proposed by the Commission

Amendment

(ha) ‘carrier’ means any natural or legal person whose profession it is to provide transport of persons by air or sea;

Or. en

Justification

For reasons of legal clarity and transparency it should be clear which carriers have to fulfill the requirements of this Regulation. These should be only air and sea carriers. Carriers transporting groups overland by coach as mentioned in recital 31 should be excluded given the heavy burden which would be put on these carriers often providing only occasional trips to the Member States’ territory.

Amendment 18

Proposal for a regulation Article 3 – paragraph 1 – point l

Text proposed by the Commission

Amendment

(l) 'terrorist offences' mean the offences which correspond or are equivalent to those referred to in **Articles 1 to 4 of Framework Decision 2002/475/JHA**;

(l) 'terrorist offences' mean the offences which correspond or are equivalent to those referred to in **Title II and III of Directive (EU) 2017/541**;

Or. en

Justification

The definition is updated to refer to the new Directive on combatting terrorism.

Amendment 19

**Proposal for a regulation
Article 6 – paragraph 2 – point b**

Text proposed by the Commission

Amendment

(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the Central System to connect to the national border infrastructures in Member States;

(b) a National Uniform Interface (NUI) in each Member State based on common technical specifications and identical for all Member States enabling the Central System to connect to the national border infrastructures in Member States ***in a secure manner***;

Or. en

Amendment 20

**Proposal for a regulation
Article 6 – paragraph 2 – point c**

Text proposed by the Commission

Amendment

(c) a ***secure*** Communication Infrastructure between the Central System and the National Uniform Interfaces;

(c) a Communication Infrastructure between the Central System and the National Uniform Interfaces ***which shall be secure and encrypted***;

Amendment 21

Proposal for a regulation

Article 6 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) the central repository referred to in Article 73(2);

Or. en

Amendment 22

Proposal for a regulation

Article 7 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) ensuring that the data stored in the applications files and in the ETIAS Central System is correct and up to date; *deleted*

Or. en

Justification

It is not clear how the Central Unit could ensure that data is correct and up to date. According to Article 15(1) the applicant is responsible for the correctness of his/her data.

Amendment 23

Proposal for a regulation

Article 7 – paragraph 2 – point b

Text proposed by the Commission

Amendment

(b) verifying travel authorisations' applications rejected from the automated

(b) verifying travel authorisations' applications rejected from the automated

process in order to *determine whether the applicant personal data corresponds to the personal data of the person having triggered a hit in one of the consulted information systems/databases or the specific risk indicators referred to in Article 28;*

process in order to *certify that the data recorded in the application file corresponds to the data triggering a hit in the automated process;*

Or. en

Justification

It is suggested to align the language to Article 20.

Amendment 24

Proposal for a regulation
Article 7 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) recording the checks performed in accordance with point (b) in the ETIAS Central System;

Or. en

Amendment 25

Proposal for a regulation
Article 7 – paragraph 2 – point d a (new)

Text proposed by the Commission

Amendment

(da) indicating the Member State responsible for the manual processing of applications as referred to in Article 22(1a);

Or. en

Amendment 26

Proposal for a regulation

Article 7 – paragraph 2 – point d b (new)

Text proposed by the Commission

Amendment

(db) where appropriate facilitating the consultations between Member States as referred to in Article 24 and between the responsible Member State and Europol as referred to in Article 25;

Or. en

Amendment 27

Proposal for a regulation

Article 7 – paragraph 2 – point d c (new)

Text proposed by the Commission

Amendment

(dc) notifying carriers in case of a failure of the ETIAS Information System as referred to in Article 40(1);

Or. en

Justification

A number of further tasks for the Central Unit are mentioned in other Articles. For reasons of transparency they should all be mentioned under this Article.

Amendment 28

Proposal for a regulation

Article 7 – paragraph 2 – point d d (new)

Text proposed by the Commission

Amendment

(dd) notifying the Member States' authorities competent for carrying out border checks at external border crossing

*points of a failure of the ETIAS
Information System as referred to in
Article 42(1);*

Or. en

Justification

A number of further tasks for the Central Unit are mentioned in other Articles. For reasons of transparency they should all be mentioned under this Article.

Amendment 29

**Proposal for a regulation
Article 7 – paragraph 2 – point d e (new)**

Text proposed by the Commission

Amendment

*(de) processing requests for
consultation of data in the ETIAS Central
System by Europol as referred to in
Article 46;*

Or. en

Justification

A number of further tasks for the Central Unit are mentioned in other Articles. For reasons of transparency they should all be mentioned under this Article.

Amendment 30

**Proposal for a regulation
Article 7 – paragraph 2 – point d f (new)**

Text proposed by the Commission

Amendment

*(df) providing the general public with
all relevant information in relation to the
application for a travel authorisation as
referred to in Article 61;*

Or. en

Justification

A number of further tasks for the Central Unit are mentioned in other Articles. For reasons of transparency they should all be mentioned under this Article.

Amendment 31

Proposal for a regulation

Article 7 – paragraph 2 – point d g (new)

Text proposed by the Commission

Amendment

(dg) cooperating with the Commission as regards the information campaign as referred to in Article 62;

Or. en

Justification

A number of further tasks for the Central Unit are mentioned in other Articles. For reasons of transparency they should all be mentioned under this Article.

Amendment 32

Proposal for a regulation

Article 7 – paragraph 2 – point d h (new)

Text proposed by the Commission

Amendment

(dh) acting as a helpdesk providing support to travellers in case of problems encountered during the application process.

Or. en

Justification

The proposal of the Commission does not contain any reference to a helpdesk function. It is, however, important for the credibility of the system to provide for such a function.

Amendment 33

Proposal for a regulation Article 7 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The ETIAS Central Unit shall publish an annual activity report. This report shall include:

(a) statistics as to the number of travel authorisations issued automatically by the ETIAS Central System, the number of applications verified by the Central Unit, and the number of applications processed manually per Member State;

(b) information on the extent to which the deadlines referred to in Articles 20(6), 23, 26 and 27 are met; and

(c) general information on the activities of the ETIAS Central Unit. The annual activity report shall be transmitted to the European Parliament, the Council and the Commission by 31 March of the following year at the latest.

Or. en

Amendment 34

Proposal for a regulation Article 8 – paragraph 2 – point a

Text proposed by the Commission

Amendment

(a) ensuring that the data stored in the applications files and in the ETIAS Central System is correct and up to date;

deleted

Or. en

Justification

It is not clear how the national units could ensure that data is correct and up to date. According to Article 15(1) the applicant is responsible for the correctness of his/her data.

Amendment 35

Proposal for a regulation

Article 8 – paragraph 2 – point b a (new)

Text proposed by the Commission

Amendment

(ba) recording the checks performed in accordance with point (b) in the ETIAS Central System;

Or. en

Amendment 36

Proposal for a regulation

Article 8 – paragraph 2 – point e

Text proposed by the Commission

Amendment

(e) acting as central access point for the consultation of the ETIAS Central System for the purpose laid down in Article 1(2) and in accordance with Article 44. ***deleted***

Or. en

Justification

It is suggested to use the system of central access points as in the case of VIS, Eurodac and EES instead of entrusting the task of the central access point to the ETIAS National Unit. As in the case of the other systems the central access point would verify whether the conditions for providing access are met.

Amendment 37

Proposal for a regulation Article 11 – paragraph 2

Text proposed by the Commission

2. Access by **border** guards to the ETIAS Central System in accordance with Article 41 shall be limited to searching the ETIAS Central System to obtain the travel authorisation status of a traveller present at an external border crossing point.

Amendment

2. Access by border guards to the ETIAS Central System in accordance with Article 41 shall be limited to searching the ETIAS Central System to obtain the travel authorisation status of a traveller present at an external border crossing point.
Exceptionally, when an additional second line check is required at the border, the border guard may access the ETIAS Central System to obtain the information referred to in Article 15(2) and (4).

Or. en

Amendment 38

Proposal for a regulation Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Applications may be lodged by holders of a travel authorisation within the six months prior to expiry of the authorisation.

Or. en

Amendment 39

Proposal for a regulation Article 14 – paragraph 7

Text proposed by the Commission

Amendment

7. The Commission shall adopt

7. The Commission shall adopt

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detailed rules on the conditions for operation of the public website and the mobile app for mobile devices, and on the data protection and security rules applicable to the public website and the mobile app for mobile devices. **Those implementing measures** shall be adopted in accordance with the examination procedure referred to in Article 79(2).

detailed rules on the conditions for operation of the public website and the mobile app for mobile devices, and on the data protection and security rules applicable to the public website and the mobile app for mobile devices. **Those detailed rules shall be based on information security risk management and data protection by design and by default. They** shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Or. en

Justification

Recommended by the EDPS in point 100 of his opinion.

Amendment 40

Proposal for a regulation Article 15 – paragraph 1

Text proposed by the Commission

1. Each applicant shall submit a completed application form including a declaration of authenticity, completeness and reliability of the data submitted and a declaration of veracity and reliability of the statements made. Minors shall submit an application form **electronically** signed by a person exercising permanent or temporary parental authority or legal guardianship.

Amendment

1. Each applicant shall submit a completed application form including a declaration of authenticity, completeness, **correctness** and reliability of the data submitted and a declaration of veracity and reliability of the statements made. Minors shall submit an application form signed by a person exercising permanent or temporary parental authority or legal guardianship.

Or. en

Justification

It should be clarified that an “electronic signature” in accordance with Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC is not required.

Amendment 41

Proposal for a regulation

Article 15 – paragraph 2 – point m

Text proposed by the Commission

(m) in the case of applications filled in by a person other than the applicant, the surname, first name(s), name of firm, organization if applicable, e-mail address, mailing address, phone number; relationship to the applicant and ***an electronically*** signed representative declaration.

Amendment

(m) in the case of applications filled in by a person other than the applicant, the surname, first name(s), name of firm, organization if applicable, e-mail address, mailing address, phone number; relationship to the applicant and ***a*** signed representative declaration.

Or. en

Justification

It should be clarified that an “electronic signature” in accordance with Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC is not required.

Amendment 42

Proposal for a regulation

Article 15 – paragraph 4 – point a

Text proposed by the Commission

(a) whether the applicant is subject to any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation or other infectious or contagious parasitic diseases;

Amendment

(a) whether the applicant is subject to any disease with epidemic potential as defined by the International Health Regulations of the World Health Organisation or other infectious or contagious parasitic diseases ***that are the subject of protection provisions applying to nationals of the Member States;***

Or. en

Justification

Text aligned with the definition of “threat to public health” in the Schengen Borders Code.

Amendment 43

Proposal for a regulation

Article 15 – paragraph 4 – point b

Text proposed by the Commission

(b) whether he or she has ever been convicted of any criminal offence in any country;

Amendment

(b) whether he or she has ever been convicted of any *serious* criminal offence in any country;

Or. en

Amendment 44

Proposal for a regulation

Article 19 – paragraph 2

Text proposed by the Commission

2. Where the automated processing laid down in Article 18(2) to (5) reports one or several hit(s), the application shall be assessed in accordance with the procedure laid down in Article 22.

Amendment

2. Where the automated processing laid down in Article 18(2) to (5) reports one or several hit(s) *and the ETIAS Central System is in a position to certify that the data recorded in the application file corresponds to the data triggering a hit*, the application shall be assessed in accordance with the procedure laid down in Article 22.

Or. en

Justification

Alignement of the language to Article 20.

Amendment 45

Proposal for a regulation Article 19 – paragraph 3

Text proposed by the Commission

3. Where the automated processing laid down in Article 18(2) to (5) **is inconclusive because** the ETIAS Central System is not in a position to certify that the data recorded in the application file **correspond** to the data triggering a hit, the application shall be assessed in accordance with the procedure laid down in Article 20.

Amendment

3. Where the automated processing laid down in Article 18(2) to (5) **reports one or several hits and** the ETIAS Central System is not in a position to certify that the data recorded in the application file **corresponds** to the data triggering a hit, the application shall be assessed in accordance with the procedure laid down in Article 20.

Or. en

Amendment 46

Proposal for a regulation Article 22 – paragraph 1

Text proposed by the Commission

1. The Member State responsible for the manual processing of applications pursuant to this Article (the 'responsible Member State') shall be the Member State of first entry as declared by the applicant in accordance with Article 15(2)(j).

Amendment

1. The Member State responsible for the manual processing of applications pursuant to this Article (the 'responsible Member State') shall be:

(a) **in the case of a hit from any of the checked systems, the Member State that entered the most recent alert resulting in a hit;**

(b) **in the case of a hit from the ETIAS watchlist, the Member State which provided the data for the watchlist;**

(c) **in all other cases, the Member State of first entry or the first intended transit** as declared by the applicant in accordance with Article 15 (2)(j).

Or. en

Amendment 47

Proposal for a regulation

Article 22 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The responsible Member State shall be indicated by the ETIAS Central Unit.

Or. en

Amendment 48

Proposal for a regulation

Article 22 – paragraph 4 – point a

Text proposed by the Commission

Amendment

(a) where the hit corresponds to one or several of the categories laid down in Article 18(2)(a) **to** (c), refuse a travel authorisation.

(a) where the hit corresponds to one or several of the categories laid down in Article 18(2)(a) **or** (c), refuse a travel authorisation.

Or. en

Justification

A refusal of a travel authorisation in case of a hit against the Interpol Stolen and Lost Travel Document database should not be automatic. In such cases an assessment by the national unit should be made in accordance with letter (b) below.

Amendment 49

Proposal for a regulation

Article 22 – paragraph 4 – point b

Text proposed by the Commission

Amendment

(b) where the hit corresponds to one or

(b) where the hit corresponds to one or

several of the categories laid down in Article 18(2)(d) to (m), assess the security or irregular migration risk and decide whether to issue or refuse a travel authorisation.

several of the categories laid down in Article 18(2)(**b**) *or* (d) to (m), assess the security or irregular migration risk and decide whether to issue or refuse a travel authorisation.

Or. en

Justification

See justification for letter (a).

Amendment 50

**Proposal for a regulation
Article 23 – paragraph 4**

Text proposed by the Commission

4. In exceptional circumstances, the ETIAS National Unit may invite the applicant for an interview at a consulate in his or her country of residence.

Amendment

4. In exceptional circumstances, the ETIAS National Unit may invite the applicant for an interview at a consulate *of any Member State present* in his or her country of residence. *In such a case the deadline referred to in Article 27(2a) shall apply.*

Or. en

Amendment 51

**Proposal for a regulation
Article 23 – paragraph 5**

Text proposed by the Commission

5. The invitation shall be notified to the applicant by the ETIAS National Unit of the Member and shall be notified to the contact e-mail address recorded in the application file.

Amendment

5. The invitation shall be notified to the applicant by the ETIAS National Unit of the *responsible* Member *State* and shall be notified to the contact e-mail address recorded in the application file. *The invitation shall be sent at least five working days before the scheduled interview.*

Amendment 52

Proposal for a regulation Article 24 – paragraph 5

Text proposed by the Commission

5. The ETIAS National Unit of the Member States consulted shall reply within **24** hours from the date of the notification of the consultation. The failure by Member States to reply within the deadline shall be considered as a positive opinion on the application.

Amendment

5. The ETIAS National Unit of the Member States consulted shall reply within **48** hours from the date of the notification of the consultation. The failure by Member States to reply within the deadline shall be considered as a positive opinion on the application.

Or. en

Amendment 53

Proposal for a regulation Article 24 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. Where appropriate the ETIAS Central Unit shall facilitate the consultations between Member States referred to in this Article.

Or. en

Amendment 54

Proposal for a regulation Article 25 – paragraph 1

Text proposed by the Commission

Amendment

1. For the purpose of carrying out the

1. For the purpose of carrying out the

assessment of security risks following a hit pursuant to Article 18(2)(j) and (4), the ETIAS National Unit of the responsible Member State shall consult Europol in cases falling under Europol's mandate. The consultation shall take place through existing communication channels between the Member State and Europol as established under Article 7 of Regulation (EU) 2016/794.

assessment of security risks following a hit pursuant to Article 18(2)(j) and (4), the ETIAS National Unit of the responsible Member State shall consult Europol in cases falling under Europol's mandate. The consultation shall take place through existing communication channels between the Member State and Europol as established under Article 7 of Regulation (EU) 2016/794 **and in accordance with that Regulation.**

Or. en

Amendment 55

Proposal for a regulation Article 25 – paragraph 5

Text proposed by the Commission

5. Europol shall reply within **24** hours of the date of the notification of the consultation. The failure by Europol to reply within the deadline shall be considered as a positive opinion on the application.

Amendment

5. Europol shall reply within **48** hours of the date of the notification of the consultation. The failure by Europol to reply within the deadline shall be considered as a positive opinion on the application.

Or. en

Amendment 56

Proposal for a regulation Article 25 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Where appropriate the ETIAS Central Unit shall facilitate the consultations between the responsible Member State and Europol referred to in this Article.

Amendment 57

Proposal for a regulation Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. In the exceptional case of an applicant being invited to a consulate under Article 23(4) the period in paragraph 1 shall be extended by seven working days.

Or. en

Amendment 58

Proposal for a regulation Article 27 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. Before expiry of the deadlines referred to in paragraphs 1 **and** 2 a decision shall be taken to:

3. Before expiry of the deadlines referred to in paragraphs 1, 2 **and 2a** a decision shall be taken to:

Or. en

Amendment 59

Proposal for a regulation Article 28 – paragraph 1

Text proposed by the Commission

Amendment

1. The ETIAS screening rules shall be an algorithm enabling the comparison between the data recorded in an application file of the ETIAS Central System and

1. The ETIAS screening rules shall be an algorithm enabling **profiling as defined in Article 4(4) of Regulation (EU) 2016/679 through** the comparison between

specific risk indicators pointing to irregular migration, security or public health risks. The ETIAS screening rules shall be registered in the ETIAS Central System.

the data recorded in an application file of the ETIAS Central System and specific risk indicators pointing to irregular migration, security or public health risks. The ETIAS screening rules shall be registered in the ETIAS Central System.

Or. en

Justification

The EDPS recommends for reasons of clarity and transparency to add that the screening rules constitute profiling so that all necessary safeguards for such profiling be provided for (point 28 of his opinion).

Amendment 60

Proposal for a regulation

Article 28 – paragraph 4 – introductory part

Text proposed by the Commission

4. Based on the risks determined in accordance with paragraph 2, the ETIAS Central Unit shall establish the specific risk indicators consisting of a combination of data including one or several of the following:

Amendment

4. Based on the risks determined in accordance with paragraph 2 ***and delegated acts adopted under paragraph 3***, the ETIAS Central Unit shall establish the specific risk indicators consisting of a combination of data including one or several of the following:

Or. en

Justification

It is necessary to refer as well to paragraph 3 as the delegated act will further specify the risks concerned and the risk indicators should be based on these risks.

Amendment 61

Proposal for a regulation

Article 29 – paragraph 1

Text proposed by the Commission

1. The ETIAS watchlist shall consist of data related to persons who are suspected of having committed or taken part in a criminal offence or persons regarding whom there are factual indications or reasonable grounds to believe that they will commit criminal offences.

Amendment

1. The ETIAS watchlist shall consist of data related to persons who are suspected **by one or several Member States** of having committed or taken part in a **serious** criminal offence or persons regarding whom there are factual indications or reasonable grounds to believe that they will commit criminal offences.

Or. en

Justification

It is important to specify by whom a person would be suspected. This should only be Member States and not third countries. "Serious" is added to ensure consistency of the text. See Article 3(1)(m) and below in paragraph 2(b) and (c) as examples.

Amendment 62

Proposal for a regulation
Article 29 – paragraph 3

Text proposed by the Commission

3. On the basis of the information referred to in paragraph 2 and relevant Europol data, Europol shall establish the ETIAS watchlist composed of items consisting of one or more of the following **data elements**:

(a) surname, **first name(s), surname at birth; date of birth, place of birth, country of birth, sex, nationality;**

(b) other names (alias(es), artistic name(s), usual name(s));

(c) a travel document (type, number and country of issuance of the travel document);

Amendment

3. On the basis of the information referred to in paragraph 2 and relevant Europol data, Europol shall establish the ETIAS watchlist composed of items consisting of one or more of the following:

(a) surname;

(aa) surname at birth;

(ab) date of birth;

(b) other names (alias(es), artistic name(s), usual name(s));

(c) a travel document (type, number and country of issuance of the travel document);

- (d) home address;
- (e) e-mail address, **phone number**;
- (f) the name, e-mail address, mailing address, phone number of a firm or organization;
- (g) IP address.

- (d) home address;
- (e) e-mail address;
- (ea) phone number**
- (f) the name, e-mail address, mailing address, phone number of a firm or organization;
- (g) IP address.

If available, first name(s), place of birth, country of birth, sex and nationality shall be added.

Or. en

Justification

The language is aligned with Article 28(4). As the idea is, however, to provide for more flexibility in the case of the watchlist a number of data elements which are presented together by the Commission are split in different letters. First name, place of birth, country of birth, sex and nationality should not alone be sufficient for an insertion in the watchlist. They shall, however, be added where available.

Amendment 63

Proposal for a regulation

Article 30 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. ETIAS National Units shall have the possibility, in case of doubt, to issue a travel authorisation with a flag recommending to the border guard to proceed to a second line check.

Or. en

Amendment 64

Proposal for a regulation

Article 30 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

1b. The ETIAS Central Unit and the ETIAS National Units shall have the possibility to add a flag indicating to border authorities and other authorities with access to the data of the ETIAS Central System that a hit triggered during the processing of the application has been assessed and that it has been verified that the hit constituted a false hit.

Or. en

Amendment 65

**Proposal for a regulation
Article 30 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. Six months before the expiry of his or her travel authorisation, the holder of a travel authorisation shall receive a notification to this end via the e-mail service.

Or. en

Amendment 66

**Proposal for a regulation
Article 31 – paragraph 2 a (new)**

Text proposed by the Commission

Amendment

2a. A previous refusal of a travel authorisation shall not lead to an automatic refusal of a new application. A new application shall be assessed on the basis of all available information.

Justification

Provision taken over from Article 21(8) of the Visa Code.

Amendment 67

Proposal for a regulation

Article 32 – paragraph 2 – point d

Text proposed by the Commission

(d) information on the procedure to be followed for *an* appeal.

Amendment

(d) information on the procedure to be followed for an appeal. ***This information shall include at least the references to the national law applicable to the appeal, the competent authority and the way in which an appeal may be lodged, information as to any assistance that may be provided by the national data protection authority, as well as the time limit for lodging an appeal.***

Justification

For an appeal to be a realistic possibility the person should receive certain minimum information. The amendment is largely taken over from the standard form of refusal of a visa as annexed to the Visa Code.

Amendment 68

Proposal for a regulation

Article 35 – paragraph 4

Text proposed by the Commission

4. New elements introduced by Europol in the ETIAS watchlist shall be compared to the data of the application files in the ETIAS Central System. Where the comparison results in a hit, the ETIAS

Amendment

4. New elements introduced by Europol in the ETIAS watchlist shall be compared to the data of the application files in the ETIAS Central System. Where the comparison results in a hit, the ETIAS

National Unit of the Member State *of first entry as declared by the applicant in accordance with Article 15(2)(j)* shall assess the security risk and, where it concludes that the conditions for granting are no longer met, it shall revoke the travel authorisation.

National Unit of the Member State *responsible under Article 22* shall assess the security risk and, where it concludes that the conditions for granting are no longer met, it shall revoke the travel authorisation.

Or. en

Amendment 69

Proposal for a regulation Article 36 – paragraph 1 – point d

Text proposed by the Commission

(d) information on the procedure to be followed for an appeal.

Amendment

(d) information on the procedure to be followed for an appeal. ***This information shall include at least the references to the national law applicable to the appeal, the competent authority and the way in which an appeal may be lodged, information as to any assistance that may be provided by the national data protection authority, as well as the time limit for lodging an appeal.***

Or. en

Justification

For an appeal to be a realistic possibility the person should receive certain minimum information. The amendment is largely taken over from the standard form of refusal of a visa as annexed to the Visa Code.

Amendment 70

Proposal for a regulation Article 38 – paragraph 1

Text proposed by the Commission

1. A travel authorisation with limited

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Amendment

1. ***Where a travel authorisation***

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territorial validity may be issued exceptionally, when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations notwithstanding the fact that the manual assessment process pursuant to Article 22 is not yet completed or that a travel authorisation has been refused, annulled or revoked.

would otherwise need to be refused, a travel authorisation with limited territorial validity may be issued exceptionally, when the Member State concerned considers it necessary on humanitarian grounds, for reasons of national interest or because of international obligations notwithstanding the fact that the manual assessment process pursuant to Article 22 is not yet completed or that a travel authorisation has been refused, annulled or revoked.

Or. en

Amendment 71

Proposal for a regulation Article 38 – paragraph 2

Text proposed by the Commission

2. *For the purposes of* paragraph 1, the applicant may *apply for a travel* authorisation with limited territorial validity *to the Member State to which he or she intends to travel. He or she and shall indicate the humanitarian grounds, the reasons of national interest or the international obligations in his or her application.*

Amendment

2. *In the cases referred to in* paragraph 1, the applicant may *be requested to provide additional information or documentation in relation to the grounds for a possible travel* authorisation with limited territorial validity.

Or. en

Amendment 72

Proposal for a regulation Article 39 – paragraph 1

Text proposed by the Commission

1. *In accordance with Article 26 of the Convention Implementing the Schengen Agreement* carriers shall consult

Amendment

1. *Air and sea* carriers shall consult the ETIAS Central System in order to verify whether or not third country

the ETIAS Central System in order to verify whether or not third country nationals subject to the travel authorisation requirement are in possession of a valid travel authorisation.

nationals subject to the travel authorisation requirement are in possession of a valid travel authorisation.

Or. en

Justification

The reference to the Convention Implementing the Schengen Agreement from 1985 should be deleted as it does not contain an obligation to check whether a passenger carries an ETIAS authorisation. It only requires to check whether a passenger is in possession of the travel documents required. The obligation to check the ETIAS status should only apply to air and sea carriers.

Amendment 73

Proposal for a regulation Article 39 – paragraph 3

Text proposed by the Commission

3. An authentication scheme, reserved exclusively for carriers, shall be set up in order to allow access to the carrier gateway for the purposes of paragraph 2 to the duly authorised members of the carriers' staff. The authentication scheme shall be adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 79(2).

Amendment

3. An authentication scheme, reserved exclusively for carriers, shall be set up in order to allow access to the carrier gateway for the purposes of paragraph 2 to the duly authorised members of the carriers' staff. The authentication scheme shall be adopted by the Commission by means of implementing acts in accordance with the examination procedure referred to in Article 79(2). ***The authentication scheme shall be based on information security risk management and data protection by design and by default.***

Or. en

Amendment 74

Proposal for a regulation Article 39 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *If a third country national subject to the travel authorisation requirement is refused entry into the territory of the Member States the carrier which brought him or her to the border shall be obliged to transport that third country national back to the point of departure.*

Or. en

Amendment 75

Proposal for a regulation Article 40 – paragraph 2

Text proposed by the Commission

Amendment

2. The details of the fall-back procedures shall be laid down in an implementing act adopted in accordance with the examination procedure referred to in Article 79(2).

2. The details of the fall-back procedures shall be laid down in an implementing act adopted in accordance with the examination procedure referred to in Article 79(2). ***Such procedures shall take into account information security risk management and data protection by design and by default.***

Or. en

Amendment 76

Proposal for a regulation Article 41 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Exceptionally, when an additional second line check is required at the border, the border guard may access in the ETIAS Central System the information referred to in Article 15(2)*

and (4).

Or. en

Amendment 77

Proposal for a regulation Article 42 – paragraph 3

Text proposed by the Commission

3. In *both scenarios, the Member State's competent authorities* for carrying out checks at external border crossing points *shall follow their national contingency plans.*

Amendment

3. In *the two cases referred to in paragraphs 1 and 2 of this Article, the authorities* competent for carrying out checks at external border crossing points *in accordance with Regulation (EU) 2016/399 shall be temporarily authorised to derogate from the obligation to consult the ETIAS Central System as referred to in Article 41(1) and the provisions regarding the travel authorisation referred to in Article 6(1)(b), Article 8(a)(i) and (bb) of Regulation (EU) 2016/399 shall temporarily not apply.*

Or. en

Justification

Instead of referring to national contingency plans it is better to provide for a harmonised solution of how to proceed in case of technical failure. In such cases border guards should proceed with the border control without ETIAS.

Amendment 78

Proposal for a regulation Article 43 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *Each Member State shall designate a central access point which shall have access to the ETIAS Central System. The central access point shall*

ensure that the conditions for requesting access to the ETIAS Central System in Article 45 are met.

The designated authority and the central access point may be part of the same organisation if this is permitted under national law. The central access point shall act independently of the designated authorities when performing its tasks under this Regulation. The central access point shall be separate from the designated authorities and shall not receive instructions from them as regards the outcome of the verification.

Member States may designate more than one central access point to reflect their organisational and administrative structure in the fulfilment of their constitutional or legal requirements.

Or. en

Justification

It is suggested to use the system of central access points as in the case of VIS, Eurodac and EES instead of entrusting the task of the central access point to the ETIAS National Unit. As in the case of the other systems the central access point would verify whether the conditions for providing access are met.

Amendment 79

Proposal for a regulation Article 43 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

(2b) Each Member State shall notify eu-LISA, the ETIAS Central Unit and the Commission of its designated authorities and central access point and may at any time amend or replace its notification. The notifications shall be published in the Official Journal of the European Union.

Or. en

Amendment 80

Proposal for a regulation

Article 43 – paragraph 2 c (new)

Text proposed by the Commission

Amendment

(2c) Only duly empowered staff of the central access points shall be authorised to access the ETIAS Central System in accordance with Articles 44 and 45.

Or. en

Amendment 81

Proposal for a regulation

Article 44 – paragraph 1

Text proposed by the Commission

Amendment

1. The **competent** authorities shall submit a reasoned electronic request for consultation of a specific set of data stored in the ETIAS Central System to the central access points referred to in Article 8(2)(c). Where consultation of data referred to in Article 15(2)(i) and (4)(b) to (d) is sought, the reasoned electronic request shall include a justification of the necessity to consult those specific data.

1. The **designated** authorities shall submit a reasoned electronic request for consultation of a specific set of data stored in the ETIAS Central System to the central access points referred to in Article 43(2a). Where consultation of data referred to in Article 15(2)(i) and (4)(b) to (d) is sought, the reasoned electronic request shall include a justification of the necessity to consult those specific data.

Or. en

Amendment 82

Proposal for a regulation

Article 44 – paragraph 2

Text proposed by the Commission

2. ***Each Member State shall ensure prior to accessing ETIAS Central System that according to its national law and procedural law a request for consultation undergoes an independent, efficient and timely verification*** whether the conditions referred to in Article 45 are fulfilled, including whether any request for consultation of data referred to in Article 15(2)(i) and (4)(b) to (d) is justified.

Amendment

2. ***Prior to accessing ETIAS Central System, the central access point shall verify*** whether the conditions referred to in Article 45 are fulfilled, including whether any request for consultation of data referred to in Article 15(2)(i) and (4)(b) to (d) is justified.

Or. en

Amendment 83

**Proposal for a regulation
Article 44 – paragraph 3**

Text proposed by the Commission

3. If the conditions referred to in Article 45 are fulfilled, the central access point shall process the requests. The data stored in the ETIAS Central System accessed by the central access point shall be transmitted to the contact points referred to in Article 43(2) in such a way as to not compromise the security of the data.

Amendment

3. ***If the verification referred to in paragraph 2 of this Article concludes that*** the conditions referred to in Article 45 are fulfilled, the central access point shall process the requests. The data stored in the ETIAS Central System accessed by the central access point shall be transmitted to the contact points referred to in Article 43(2) in such a way as to not compromise the security of the data.

Or. en

Amendment 84

**Proposal for a regulation
Article 44 – paragraph 4**

Text proposed by the Commission

4. In an exceptional case of urgency, where there is a need to immediately obtain personal data ***necessary for preventing*** the commission of a serious ***crime*** or for ***prosecuting*** its perpetrators, the central access point shall process the request immediately and without the independent verification provided in paragraph 2. An ex post independent verification shall take place without undue delay after the processing of the request, ***including whether an exceptional case of urgency actually existed.***

Amendment

4. In an exceptional case of urgency, where there is a need to immediately obtain personal data ***to prevent an imminent danger associated with a terrorist offence,*** the commission of a serious ***criminal offence*** or for ***the prosecution of*** its perpetrators, the central access point shall process the request immediately and without the independent verification provided in paragraph 2. An ex post independent verification ***whether the conditions referred to in Article 45 were fulfilled, including whether an exceptional case of urgency actually existed*** shall take place without undue delay ***and in any event no later than 48 hours*** after the processing of the request.

Or. en

Justification

It is suggested to align this paragraph to the Commission's proposal on EES together with the Parliament's position thereon.

Amendment 85

Proposal for a regulation

Article 45 – paragraph 1 – point a

Text proposed by the Commission

(a) the consultation is necessary for the purpose of the prevention, detection or investigation of a terrorist ***offences*** or another serious criminal offence;

Amendment

(a) the consultation is necessary for the purpose of the prevention, detection or investigation of a terrorist ***offence*** or another serious criminal offence;

Or. en

Amendment 86

Proposal for a regulation

Article 45 – paragraph 1 – point b

Text proposed by the Commission

(b) access for consultation is necessary in a specific case;

Amendment

(b) access for consultation is necessary **and proportionate** in a specific case;

Or. en

Amendment 87

Proposal for a regulation

Article 45 – paragraph 1 – point c

Text proposed by the Commission

(c) reasonable grounds exist to consider that the consultation of data stored in the ETIAS Central System **may** substantially contribute to the prevention, detection or investigation of any of the criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under the category of third country nationals covered by this Regulation;

Amendment

(c) **evidence or** reasonable grounds exist to consider that the consultation of data stored in the ETIAS Central System **will** substantially contribute to the prevention, detection or investigation of any of the **serious** criminal offences in question, in particular where there is a substantiated suspicion that the suspect, perpetrator or victim of a terrorist offence or other serious criminal offence falls under the category of third country nationals covered by this Regulation;

Or. en

Amendment 88

Proposal for a regulation

Article 46 – paragraph 2 – point b

Text proposed by the Commission

(b) the consultation is necessary in a

Amendment

(b) the consultation is necessary **and**

specific case;

proportionate in a specific case;

Or. en

Amendment 89

Proposal for a regulation

Article 46 – paragraph 2 – point d

Text proposed by the Commission

(d) reasonable grounds exist to consider that the consultation *may* substantially contribute to the prevention, detection or investigation of any of the criminal offences in question;

Amendment

(d) *evidence or* reasonable grounds exist to consider that the consultation *will* substantially contribute to the prevention, detection or investigation of any of the *serious* criminal offences in question;

Or. en

Amendment 90

Proposal for a regulation

Article 46 – paragraph 4

Text proposed by the Commission

4. Consultation of the ETIAS Central System shall, in the event of a hit with data stored in an application file, give access to the data referred to in Article 15(2)(a) to (g) and (j) to (m) as well as to the data entered in the application file in respect to the issuing, refusal, revocation or annulment of a travel authorisation in accordance with Articles 33 and 37. Access to the data referred to in Article 15(2)(i) and in (4)(b) to (d) as stored in the application file shall only be given if consultation of that data was explicitly requested by Europol.

Amendment

4. Consultation of the ETIAS Central System shall, in the event of a hit with data stored in an application file, give access to the data referred to in Article 15(2)(a) to (g) and (j) to (m) as well as to the data entered in the application file in respect to the issuing, refusal, revocation or annulment of a travel authorisation in accordance with Articles 33 and 37. Access to the data referred to in Article 15(2)(i) and in (4)(b) to (d) as stored in the application file shall only be given if consultation of that data was explicitly requested by Europol. *Consultation of the ETIAS Central System shall not give access to data concerning education referred to in Article 15(2)(h) or on*

whether or not the applicant may pose a public health risk as referred to in Article 15(4)(a).

Or. en

Justification

The addition is proposed to align the Europol access with the access under Article 45(4).

Amendment 91

**Proposal for a regulation
Article 49 – paragraph 3**

Text proposed by the Commission

3. [Directive (EU) 2016/680] shall apply to the processing by Member States designated authorities for the purposes of Article 1(2).

Amendment

3. [Directive (EU) 2016/680] shall apply to the processing *of personal data* by Member States designated authorities for the purposes of Article 1(2).

Or. en

Amendment 92

**Proposal for a regulation
Article 51 – paragraph 1**

Text proposed by the Commission

1. eu-LISA is to be considered a data processor in accordance with Article 2(**d**) of Regulation (EC) No 45/2001 in relation to the processing of personal data in the ETIAS Information System.

Amendment

1. eu-LISA is to be considered a data processor in accordance with Article 2(**e**) of Regulation (EC) No 45/2001 in relation to the processing of personal data in the ETIAS Information System.

Or. en

Justification

The reference is corrected.

Amendment 93

Proposal for a regulation

Article 52 – paragraph 3 – point b

Text proposed by the Commission

(b) deny unauthorised persons access to the secure website *that carries out operations in accordance with the purposes of the ETIAS*;

Amendment

(b) deny unauthorised persons access to the secure website;

Or. en

Amendment 94

Proposal for a regulation

Article 52 – paragraph 3 – point b a (new)

Text proposed by the Commission

Amendment

(ba) deny unauthorised persons access to data-processing equipment and national installations in which the Member State carries out operations in accordance with the purposes of ETIAS;

Or. en

Justification

A number of additions are proposed which correspond to the EP position in EES which aligned the text to the Eurodac proposal of the Commission.

Amendment 95

Proposal for a regulation

Article 52 – paragraph 3 – point d a (new)

Text proposed by the Commission

Amendment

(da) prevent the use of automated data-processing systems by unauthorised

persons using data communication equipment;

Or. en

Justification

A number of additions are proposed which correspond to the EP position in EES which aligned the text to the Eurodac proposal of the Commission.

Amendment 96

Proposal for a regulation

Article 52 – paragraph 3 – point f

Text proposed by the Commission

(f) ensure that persons authorised to access the ETIAS Information System have access only to the data covered by their access authorisation, by means of individual user identities and confidential access modes only;

Amendment

(f) ensure that persons authorised to access the ETIAS Information System have access only to the data covered by their access authorisation, by means of individual ***and unique*** user identities and confidential access modes only;

Or. en

Justification

A number of additions are proposed which correspond to the EP position in EES which aligned the text to the Eurodac proposal of the Commission.

Amendment 97

Proposal for a regulation

Article 52 – paragraph 3 – point j a (new)

Text proposed by the Commission

Amendment

(ja) ensure that, in the event of an interruption, installed systems can be restored to normal operation;

Or. en

Justification

A number of additions are proposed which correspond to the EP position in EES which aligned the text to the Eurodac proposal of the Commission.

Amendment 98

Proposal for a regulation

Article 52 – paragraph 3 – point j b (new)

Text proposed by the Commission

Amendment

(jb) ensure reliability by making sure that any faults in the functioning of ETIAS are properly reported and that necessary technical measures are put in place to ensure that personal data can be restored in the event of corruption due to malfunctioning of the system;

Or. en

Justification

A number of additions are proposed which correspond to the EP position in EES which aligned the text to the Eurodac proposal of the Commission.

Amendment 99

Proposal for a regulation

Article 52 a (new)

Text proposed by the Commission

Amendment

Article 52a

Security incidents

1. Any event that has or may have an impact on the security of ETIAS and may cause damage or loss to ETIAS data shall be considered to be a security incident, in particular where unauthorised access to data may have occurred or where the availability, integrity and confidentiality of data has or may have been

compromised.

2. Security incidents shall be managed to ensure a quick, effective and proper response.

3. Without prejudice to the notification and communication of a personal data breach pursuant to Article 33 of Regulation (EU) No 2016/679 and/or to Article 30 of Directive (EU) No 2016/680, Member States shall notify the Commission, eu-LISA and the European Data Protection Supervisor of security incidents. In the event of a security incident involving the ETIAS Central System, eu-LISA shall notify the Commission and the European Data Protection Supervisor.

4. Information regarding a security incident that has or may have an impact on the operation of ETIAS or on the availability, integrity and confidentiality of the data shall be provided to the Member States and reported in compliance with an incident management plan to be provided by eu-LISA.

5. The Member States concerned and eu-LISA shall collaborate in the event of a security incident.

Or. en

Amendment 100

Proposal for a regulation Article 53 a (new)

Text proposed by the Commission

Amendment

Article 53a

Penalties

Member States shall take the necessary measures to ensure that any use of data entered in ETIAS in contravention of this

Regulation is punishable in accordance with national law.

Or. en

Amendment 101

Proposal for a regulation Article 54 – title

Text proposed by the Commission

Right of information, access, ***correction***
and erasure

Amendment

Right of information, access, ***rectification, restriction, blocking*** and erasure

Or. en

Justification

The title should be changed to correctly refer to the rights referred to in Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and Article 15, 16, 17 and 18 of [Regulation (EU) 2016/679].

Amendment 102

Proposal for a regulation Article 54 – paragraph 1

Text proposed by the Commission

1. Without prejudice to the right of information in Articles 11 and 12 of Regulation (EC) 45/2001, applicants whose data are stored in the ETIAS Central System shall be informed, at the time their data are collected, on the procedures for exercising the rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and on the contact details of the data protection officer of the European Border and Coast Guard Agency, of the European Data Protection Supervisor and of the national supervisory authority of the responsible

Amendment

1. Without prejudice to the right of information in Articles 11 and 12 of Regulation (EC) 45/2001, applicants whose data are stored in the ETIAS Central System shall be informed, at the time their data are collected, on the procedures for exercising the rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 ***and Articles 15, 16, 17 and 18 of Regulation (EU) 2016/679*** and on the contact details of the data protection officer of the European Border and Coast Guard Agency, of the European Data Protection Supervisor and of the national supervisory authority of

Member State.

the responsible Member State.

Or. en

Amendment 103

Proposal for a regulation

Article 54 – paragraph 2 – subparagraph 1

Text proposed by the Commission

2. In order to exercise their rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and Article 15, 16, 17 and 18 of [Regulation (EU) 2016/679] any applicant shall have the right to address him or herself to the ETIAS Central Unit or to the ETIAS National Unit responsible for the application, who shall examine and reply to the request.

Amendment

2. In order to exercise their rights under Articles 13, 14, 15 and 16 of Regulation (EC) 45/2001 and Article 15, 16, 17 and 18 of [Regulation (EU) 2016/679] any applicant shall have the right to address him or herself to the ETIAS Central Unit or to the ETIAS National Unit responsible for the application, who shall examine and reply to the request *within 14 days*.

Or. en

Amendment 104

Proposal for a regulation

Article 54 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Where following an examination it is found that the data stored in the ETIAS Central System are factually inaccurate or have been recorded unlawfully, the ETIAS Central Unit or the ETIAS National Unit of the responsible Member State for the application shall correct or delete these data in the ETIAS Central System.

Amendment

Where following an examination it is found that the data stored in the ETIAS Central System are factually inaccurate or have been recorded unlawfully, the ETIAS Central Unit or the ETIAS National Unit of the responsible Member State for the application shall correct or delete these data in the ETIAS Central System *without delay*.

Or. en

Amendment 105

Proposal for a regulation

Article 54 – paragraph 2 – subparagraph 3

Text proposed by the Commission

Where a travel authorisation is amended by the ETIAS Central Unit or an ETIAS National Unit during its validity period, the ETIAS Central System shall carry out the automated processing laid down in Article 18 to determine whether the amended application file triggers a hit pursuant to Article 18(2) to (5). Where the automated processing does not report any hit, the ETIAS Central System shall issue an amended travel authorisation with the same validity of the original and notify the applicant. Where the automated processing reports one or several hit(s), the ETIAS National Unit of the Member State *of first entry as declared by the applicant in accordance with Article 15(2)(j)* shall assess the irregular migration, security or public health risk and shall decide whether to issue an amended travel authorisation or, where it concludes that the conditions for granting the travel authorisation are no longer met, revoke the travel authorisation.

Amendment

Where a travel authorisation is amended ***following a request pursuant to in this paragraph*** by the ETIAS Central Unit or an ETIAS National Unit during its validity period, the ETIAS Central System shall carry out the automated processing laid down in Article 18 to determine whether the amended application file triggers a hit pursuant to Article 18(2) to (5). Where the automated processing does not report any hit, the ETIAS Central System shall issue an amended travel authorisation with the same validity of the original and notify the applicant. Where the automated processing reports one or several hit(s), ***in accordance with Article 22***, the ETIAS National Unit of the ***responsible*** Member State shall assess the irregular migration, security or public health risk and shall decide whether to issue an amended travel authorisation or, where it concludes that the conditions for granting the travel authorisation are no longer met, revoke the travel authorisation.

Or. en

Amendment 106

Proposal for a regulation

Article 56 – title

Text proposed by the Commission

Supervision by the national supervisory
authority

Amendment

Supervision by the national supervisory
authorities

Amendment 107

Proposal for a regulation Article 56 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1. Each Member State shall ensure that the national supervisory authority or authorities designated pursuant to Article 51(1) of Regulation (EU) 2016/679 monitor the lawfulness of the processing of personal data pursuant to this Regulation.

Or. en

Amendment 108

Proposal for a regulation Article 56 – paragraph -1 a (new)

Text proposed by the Commission

Amendment

-1a. Each Member State shall ensure that the provisions adopted under national law implementing Directive (EU) 2016/680 are also applicable to the access to ETIAS by its national authorities in accordance with Article 1(2).

Or. en

Amendment 109

Proposal for a regulation Article 56 – paragraph -1 b (new)

Text proposed by the Commission

Amendment

-1b. The monitoring of the lawfulness of the access to personal data by the national authorities of the Member States for the purposes listed in Article 1(2) of this Regulation shall be carried out by the national supervisory authorities designated pursuant to Directive (EU) 2016/680.

Or. en

Amendment 110

**Proposal for a regulation
Article 57 – paragraph -1 (new)**

Text proposed by the Commission

Amendment

The European Data Protection Supervisor shall be responsible for monitoring the personal data processing activities of eu-LISA, Europol and the European Border and Coast Guard Agency involving ETIAS and for ensuring that such activities are carried out in accordance with Regulation (EC) No 45/2001 and with this Regulation.

Or. en

Amendment 111

**Proposal for a regulation
Article 58 – paragraph 1**

Text proposed by the Commission

Amendment

1. The European Data Protection Supervisor shall act in close cooperation with national supervisory authorities with

1. The supervisory authorities and the European Data Protection Supervisor shall, each acting within the scope of their

respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the ETIAS, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.

respective competences, cooperate actively in the framework of their responsibilities to ensure coordinated supervision of ETIAS. This includes close cooperation with respect to specific issues requiring national involvement, in particular if the European Data Protection Supervisor or a national supervisory authority finds major discrepancies between practices of Member States or finds potentially unlawful transfers using the communication channels of the ETIAS, or in the context of questions raised by one or more national supervisory authorities on the implementation and interpretation of this Regulation.

Or. en

Amendment 112

Proposal for a regulation Article 58 – paragraph 2

Text proposed by the Commission

2. ***In cases referred to under paragraph 1, the*** European Data Protection Supervisor and the national supervisory authorities competent for data protection supervision ***may***, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties over the interpretation or application of this Regulation, study problems related to the exercise of independent supervision or the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

Amendment

2. The European Data Protection Supervisor and the national supervisory authorities competent for data protection supervision ***shall***, each acting within the scope of their respective competences, exchange relevant information, assist each other in carrying out audits and inspections, examine difficulties over the interpretation or application of this Regulation, study problems related to the exercise of independent supervision or the exercise of the rights of the data subject, draw up harmonised proposals for joint solutions to any problems and promote awareness of data protection rights, as necessary.

Or. en

Amendment 113

Proposal for a regulation Article 60 – paragraph 4

Text proposed by the Commission

4. The records referred to in paragraphs 1 and 2 shall be used only to check the admissibility of the request, monitor the lawfulness of data processing and to ensure data integrity and security. ***Only records containing non-personal data may be used for the monitoring and evaluation referred to in Article 81.*** The European Data Protection Supervisor and the competent supervisory authorities responsible for monitoring the lawfulness of the data processing and data integrity and security shall have access to those records at their request for the purpose of fulfilling their duties. The authority responsible for checking the admissibility of the request shall also have access to those records for this purpose. Other than for such purposes, personal data, as well as the records of the consultation requests of data stored in the ETIAS Central System shall be erased in all national and Europol files after a period of one month, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were requested by a Member State or by Europol.

Amendment

4. The records referred to in paragraphs 1 and 2 shall be used only to check the admissibility of the request, monitor the lawfulness of data processing and to ensure data integrity and security. The European Data Protection Supervisor and the competent supervisory authorities responsible for monitoring the lawfulness of the data processing and data integrity and security shall have access to those records at their request for the purpose of fulfilling their duties. The authority responsible for checking the admissibility of the request shall also have access to those logs for this purpose. Other than for such purposes, personal data, as well as the records of the consultation requests of data stored in the ETIAS Central System shall be erased in all national and Europol files after a period of one month, unless those data and records are required for the purposes of the specific ongoing criminal investigation for which they were requested by a Member State or by Europol. ***Only records containing non-personal data may be used for the monitoring and evaluation referred to in Article 81.***

Or. en

Amendment 114

Proposal for a regulation Article 61 – paragraph 1 – point d

Text proposed by the Commission

(d) that decisions on applications must be notified to the applicant, that such decisions must state, where relevant, the reasons for refusal on which they are based and that applicants whose applications are refused have a right to appeal, with information regarding the procedure to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;

Amendment

(d) that ***applicants are responsible for the authenticity, completeness, correctness and reliability of the data submitted and of the veracity and reliability of the statements made, that*** decisions on applications must be notified to the applicant, that such decisions must state, where relevant, the reasons for refusal on which they are based and that applicants whose applications are refused have a right to appeal, with information regarding the procedure to be followed in the event of an appeal, including the competent authority, as well as the time limit for lodging an appeal;

Or. en

Amendment 115

Proposal for a regulation

Article 61 – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) that the possession of a travel authorisation constitutes a condition for entry to the territory of the Member States;

Amendment

Or. en

Amendment 116

Proposal for a regulation

Article 61 – paragraph 1 – point e a (new)

Text proposed by the Commission

(ea) that the data entered into the

Amendment

ETIAS Information System is used for the purposes of border management, including for checks in databases, and that the data may be accessed by the Member States and Europol for law enforcement purposes;

Or. en

Amendment 117

Proposal for a regulation
Article 61 – paragraph 1 – point e b (new)

Text proposed by the Commission

Amendment

(eb) the period for which data will be stored;

Or. en

Amendment 118

Proposal for a regulation
Article 61 – paragraph 1 – point e c (new)

Text proposed by the Commission

Amendment

(ec) the rights of data subjects according to Regulations (EC) No 45/2001, (EU)2016/679 and (EU) 2016/794 and Directive (EU) 2016/680.

Or. en

Amendment 119

Proposal for a regulation
Article 62 – paragraph 1

Text proposed by the Commission

The Commission shall, in cooperation with the ETIAS Central Unit, and the Member States, accompany the start of the ETIAS operation with an information campaign, to inform third country nationals falling within the scope of this Regulation of their travel authorisation requirement to be in possession of a valid travel authorisation for crossing the external borders.

Amendment

The Commission shall, in cooperation with the ***European External Action Service, the ETIAS Central Unit, the supervisory authorities, the European Data Protection Supervisor*** and the Member States, accompany the start of the ETIAS operation with an information campaign, to inform third country nationals falling within the scope of this Regulation of their requirement to be in possession of a valid travel authorisation for crossing the external borders. ***Such information campaigns shall be conducted regularly.***

Or. en

Amendment 120

Proposal for a regulation

Article 63 – paragraph 3 – subparagraph 4

Text proposed by the Commission

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination.

Amendment

The development shall consist of the elaboration and implementation of the technical specifications, testing and overall project coordination. ***eu-LISA shall perform and maintain an information security risk assessment and follow the principles of data protection by design and by default.***

Or. en

Amendment 121

Proposal for a regulation

Article 64 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Following the entry into operations of the ETIAS, eu-LISA shall be responsible for the technical management of the Central System and the National Uniform Interfaces. It shall ensure, in cooperation with the Member States, at all times the best available technology, subject to a cost-benefit analysis. eu-LISA shall also be responsible for the technical management of the Communication Infrastructure between the Central system and the National Uniform Interfaces as well as for the public website, the mobile app for mobile devices, the email service, the secure account service, the carrier gateway, the web service and the software to process the applications referred to in Article 6.

Amendment

Following the entry into operations of the ETIAS, eu-LISA shall be responsible for the technical management of the Central System and the National Uniform Interfaces. It shall ensure, in cooperation with the Member States, **that** at all times the best available technology, subject to a cost-benefit analysis, **is used**. eu-LISA shall also be responsible for the technical management of the Communication Infrastructure between the Central system and the National Uniform Interfaces as well as for the public website, the mobile app for mobile devices, the email service, the secure account service, the carrier gateway, the web service and the software to process the applications referred to in Article 6.

Or. en

Amendment 122

**Proposal for a regulation
Article 64 – paragraph 2**

Text proposed by the Commission

2. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff required to work with data stored in the ETIAS Central System. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.

Amendment

2. Without prejudice to Article 17 of the Staff Regulations of Officials of the European Union, eu-LISA shall apply appropriate rules of professional secrecy or other equivalent duties of confidentiality to its entire staff **including those of contractors** required to work with data stored in the ETIAS Central System. This obligation shall also apply after such staff leave office or employment or after the termination of their activities.

Or. en

Amendment 123

Proposal for a regulation

Article 64 – paragraph 3

Text proposed by the Commission

3. eu-LISA shall also perform tasks related to providing training on the technical use of the ETIAS Information System.

Amendment

3. eu-LISA shall also perform tasks related to providing training on the technical use of the ETIAS Information System **and on measures to improve the quality of ETIAS data.**

Or. en

Amendment 124

Proposal for a regulation

Article 65 – paragraph 1 – point a

Text proposed by the Commission

(a) the setting up and operation of the ETIAS Central Unit;

Amendment

(a) the setting up and operation of the ETIAS Central Unit **and its information security;**

Or. en

Amendment 125

Proposal for a regulation

Article 65 – paragraph 2

Text proposed by the Commission

2. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS Central Unit having a right to access the ETIAS Central System shall be given appropriate training about data security and data protection rules, in particular on relevant

Amendment

2. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS Central Unit having a right to access the ETIAS Central System shall be given appropriate training about data security and data protection rules, in particular on relevant fundamental rights. **They shall also follow**

fundamental rights.

training offered by eu-LISA on the technical use of the ETIAS Information System and on measures to improve the quality of ETIAS data.

Or. en

Amendment 126

Proposal for a regulation Article 66 – paragraph 3

Text proposed by the Commission

3. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS National Units having a right to access the ETIAS Information System shall be given appropriate training about data security and data protection rules, in particular on relevant fundamental rights.

Amendment

3. Before being authorised to process data recorded in the ETIAS Central System, the staff of the ETIAS National Units having a right to access the ETIAS Information System shall be given appropriate training about data security and data protection rules, in particular on relevant fundamental rights. *They shall also follow training offered by eu-LISA on the technical use of the ETIAS Information System and on measures to improve the quality of ETIAS data.*

Or. en

Amendment 127

Proposal for a regulation Article 69 – paragraph 1 – point 1 – point a a (new) Regulation (EU) 2016/399 Article 6 – paragraph 1 – subparagraphs 1 a and 1 b (new)

Text proposed by the Commission

Amendment

(aa) the following subparagraphs are added:

“For a transitional period as established pursuant to Article 72(1) and (2) of [Regulation establishing a European Travel Information and Authorisation

System (ETIAS)] the utilisation of ETIAS shall be optional and the requirement to be in possession of a valid travel authorisation shall not apply. The border guards shall inform third country nationals subject to the travel authorisation requirement crossing the external borders of the requirement to have a valid travel authorisation from the expiry of the transitional period. For this purpose, the border guards shall distribute a common leaflet to this category of travellers as referred to in Article 72(3) of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)].

During a grace period established pursuant to Article 72(4) and (5) of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] the border guards shall exceptionally allow third country nationals subject to the travel authorisation requirement who are not in possession of a travel authorisation to cross the external borders where they fulfil all the remaining conditions of this Article provided that they cross the external borders of the Member States for the first time since the end of the transitional period referred to in Article 72(1) and (2) of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)]. Border guards shall notify the third country nationals subject to the travel authorisation requirement of the requirement to be in possession of a valid travel authorisation in accordance with this Article.”

Or. en

Justification

These provisions are foreseen in the ETIAS Regulation. They should, however, also be included in the Schengen Borders Code as they provide for derogations from the conditions of

entry as laid down in the Schengen Borders Code.

Amendment 128

Proposal for a regulation

Article 70 – paragraph 1 – point 1

Regulation (EU) 2016/794

Article 4 – paragraph 1 – point n

Text proposed by the Commission

(n) establish, manage and update the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with Article 18(2)(a).

Amendment

(n) establish, manage and update the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with Article 18(2)(a). ***The Management Board shall adopt guidelines further specifying the procedures for the processing of information for the purpose of the ETIAS watchlist, after consulting the EDPS.***

Or. en

Amendment 129

Proposal for a regulation

Article 73 – paragraph 1 – point b

Text proposed by the Commission

(b) nationalities, sex and ***date*** of birth of the applicant;

Amendment

(b) nationalities, sex and ***year*** of birth of the applicant;

Or. en

Amendment 130

Proposal for a regulation

Article 73 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Detailed rules on the operation of the central repository and the data protection and security rules applicable to the repository shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Amendment

Detailed rules on the operation of the central repository, ***taking into consideration information security risk management and data protection by design and by default***, and the data protection and security rules applicable to the repository shall be adopted in accordance with the examination procedure referred to in Article 79(2).

Or. en

Amendment 131

**Proposal for a regulation
Article 73 – paragraph 5**

Text proposed by the Commission

5. At the end of each year, statistical data shall be compiled in the form of ***quarterly statistics*** for that year.

Amendment

5. At the end of each year, statistical data shall be compiled in the form of ***an annual report*** for that year. ***The report shall be published and transmitted to the European Parliament, to the Council, to the Commission, to the European Data Protection Supervisor, to the European Border and Coast Guard Agency and to the supervisory authorities.***

Or. en

Amendment 132

**Proposal for a regulation
Article 74 – paragraph 1**

Text proposed by the Commission

The costs incurred in connection with the development of the ETIAS Information

Amendment

The costs incurred in connection with the development of the ETIAS Information

System, the integration of the existing national border infrastructure and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface, the set-up of the ETIAS Central and National Units and *the* operation of the ETIAS shall be borne by the general budget of the Union.

System, the integration of the existing national border infrastructure and the connection to the National Uniform Interface as well as by hosting the National Uniform Interface, the set-up of the ETIAS Central and National Units, *the maintenance* and operation of the ETIAS, *including the costs of staff of the ETIAS National Units*, shall be borne by the general budget of the Union.

Or. en

Amendment 133

Proposal for a regulation Article 74 – paragraph 2

Text proposed by the Commission

Amendment

The following costs shall be excluded:

deleted

- (a) Member States' project management office (meetings, missions, offices);***
- (b) hosting of national systems (space, implementation, electricity, cooling);***
- (c) operation of national systems (operators and support contracts);***
- (d) customisation of existing border checks;***
- (e) design, development, implementation, operation and maintenance of national communication networks;***

Or. en

Amendment 134

Proposal for a regulation Article 75 – paragraph 1

Text proposed by the Commission

The revenues generated by the ETIAS shall constitute **external** assigned revenue in accordance with Article 21(4) of Regulation (EU, EURATOM) No 966/2012.

Amendment

The revenues generated by the ETIAS shall constitute **internal** assigned revenue in accordance with Article 21(4) of Regulation (EU, EURATOM) No 966/2012.

Or. en

Amendment 135

Proposal for a regulation

Article 76 – paragraph 2 – subparagraph 1

Text proposed by the Commission

The ETIAS Central Unit and the Member States shall notify eu-LISA of the competent authorities referred to in Article 11 which have access to the ETIAS Information System.

Amendment

The ETIAS Central Unit and the Member States shall notify **the Commission and** eu-LISA of the competent authorities referred to in Article 11 which have access to the ETIAS Information System.

Or. en

Amendment 136

Proposal for a regulation

Article 76 – paragraph 2 – subparagraph 2

Text proposed by the Commission

A consolidated list of those authorities shall be published in the Official Journal of the European Union within a period of three months from the date on which ETIAS commenced operations in accordance with Article 77. Where there are amendments to the list, eu-LISA shall publish an updated consolidated list once a year.

Amendment

deleted

Amendment 137

Proposal for a regulation Article 76 – paragraph 3

Text proposed by the Commission

3. Member States shall notify the Commission of their designated authorities referred to in Article 43 and shall notify without delay any amendments thereto.

Amendment

3. Member States shall notify the Commission **and eu-LISA** of their designated authorities referred to in Article 43 and shall notify without delay any amendments thereto.

Amendment 138

Proposal for a regulation Article 76 – paragraph 5

Text proposed by the Commission

5. The Commission shall **make** the information notified pursuant to **paragraph 1 available to the Member States and the public** by a constantly updated public website.

Amendment

5. The Commission shall **publish** the information notified pursuant to **paragraphs 1, 2 and 3 in the Official Journal of the European Union. Where there are amendments thereto, the Commission shall publish once a year an updated consolidated version of this information. The Commission shall maintain** a constantly updated public website **containing this information**.

Amendment 139

Proposal for a regulation Article 77 – paragraph 1 – point -a (new)

Text proposed by the Commission

Amendment

(-a) the necessary amendments to the legal acts of the information systems referred to in Article 10 with which interoperability shall be established with the ETIAS Information System have entered into force;

Or. en

Amendment 140

Proposal for a regulation

Article 77 – paragraph 1 – point -a a (new)

Text proposed by the Commission

Amendment

(-aa) the necessary amendment to Regulation (EU) No 1077/2011 of the European Parliament and of the Council^{1a} entrusting the eu-LISA with the operational management of ETIAS has entered into force;

^{1a} Regulation (EU) No 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 286 1.11.2011, p. 1).

Or. en

Amendment 141

Proposal for a regulation

Article 77 – paragraph 1 – point -a b (new)

(-ab) the necessary amendments to the legal acts of the information systems referred to in Article 18 providing for an access to these databases for the ETIAS Central Unit have entered into force;

Or. en

Amendment 142

Proposal for a regulation Article 81 – paragraph 2

Text proposed by the Commission

2. By [Six months after the entry into force of this Regulation – OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the ETIAS Information System, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the Communication Infrastructure between the Central System and the Uniform Interfaces. Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.

Amendment

2. By [Six months after the entry into force of this Regulation – OPOCE, please replace with the actual date] and every six months thereafter during the development phase of the ETIAS Information System, eu-LISA shall submit a report to the European Parliament and the Council on the state of play of the development of the Central System, the Uniform Interfaces and the Communication Infrastructure between the Central System and the Uniform Interfaces. ***This report shall contain detailed information about the costs incurred and information as to any risks which may impact the overall costs of the system to be borne by the general budget of the Union in accordance with Article 74.*** Once the development is finalised, a report shall be submitted to the European Parliament and the Council explaining in detail how the objectives, in particular relating to planning and costs, were achieved as well as justifying any divergences.

Or. en

Amendment 143

Proposal for a regulation

Article 81 – paragraph 5 – subparagraph 1 – point b a (new)

Text proposed by the Commission

Amendment

(ba) the security of ETIAS;

Or. en

Amendment 144

Proposal for a regulation

Article 81 – paragraph 5 – subparagraph 2

Text proposed by the Commission

Amendment

The Commission shall transmit the evaluation report to the European Parliament *and* the Council.

The Commission shall transmit the evaluation report to the European Parliament, the Council, *the European Data Protection Supervisor and the European Agency for Fundamental Rights*.

Or. en

Amendment 145

Proposal for a regulation

Article 82 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

This Regulation shall apply from the date determined by the Commission in accordance with Article 77, with the exception of Articles 62, 63, 68, 74, 76, 78, 79 as well as the provisions related to the measures referred to in Article 77(1), which shall apply from the date of entry into force of this Regulation.

EXPLANATORY STATEMENT

Background and content of the proposal

The Commission presented the proposal establishing a European Travel Information and Authorisation System (ETIAS) (COM(2016) 731) accompanied by a legislative financial statement and based on a feasibility study¹ on 16 November 2016. It follows up on the Communication of the Commission of 6 April 2016 entitled 'Stronger and Smarter Information Systems for Borders and Security' (COM(2016) 205) in which the Commission outlined the need for the EU to strengthen and improve its IT systems, data architecture and information exchange in the area of border management, law enforcement and counter-terrorism.

The proposal lays down provisions on the objectives of the ETIAS, its technical architecture, the different actors involved in the assessment of an ETIAS application, the data required, the application process, the rules for assessment including checks against other information systems, the watchlist and specific risk indicators, the authorities with access and data protection provisions. It also contains amendments to a number of other legislative instruments, including the Schengen Borders Code to make the possession of an ETIAS a condition of entry, the Europol Regulation and the Frontex Regulation. Necessary amendments to the eu-LISA Regulation will be included in the upcoming review of this Regulation. Finally, it will be necessary to amend the legal acts of the information systems with which interoperability should be established with the ETIAS Information System to specify which data may be exchanged between the systems in an automated way and the detailed rules in this regard.

Procedure

In order to assess the Commission's proposal and to prepare for this draft report the rapporteur sought input from a wide range of sources. A series of meetings held at technical level took place with the Commission's services to discuss the entire proposal in detail. In addition, various stakeholders and experts were invited to attend meetings with the shadow rapporteurs. These were the European agencies affected by or interested in the ETIAS proposal (eu-LISA, Europol, Frontex, FRA), the European Data Protection Supervisor, US experts informing about experiences with the US ESTA and representatives of air carriers. Finally, the authors of a study requested by the LIBE Committee on ETIAS presented their findings. To complement these meetings a request for an opinion of the Fundamental Rights Agency was made and a visit to the technical site of eu-LISA in Strasbourg organised.

Position of the rapporteur

The rapporteur welcomes the proposal to establish a European Travel Information and

¹ Feasibility Study for a European Travel Information and Authorisation System (ETIAS), Final Report; http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/european-agenda-security/legislative-documents/docs/20161116/etias_feasability_study_en.pdf.

Authorisation System. She fully supports the overall rationale and the main elements of the Commission's proposal.

The ETIAS will allow for the possibility to assess whether a visa-exempt third country national who intends to travel to the Schengen area potentially constitutes an irregular migration, security or public health risk before the person arrives at the external border at a border crossing point. The ETIAS will therefore contribute to a better assessment as to whether the conditions of entry are fulfilled by a third country national and thereby to the security of the Schengen area as a whole.

Currently, a border guard is faced with the task to make a wide range of assessments on the spot within a very limited timeframe. The ETIAS system, once in place, will allow to make a number of pre-checks in advance of the border check, some of which are currently not possible for a border guard to undertake. The system thereby provides the border guard with an indication that such a pre-check was undertaken and that during this check no reasons for a refusal were found. The system would, however, not impinge upon the border guard's authority to take the final decision to allow the person to enter or to refuse the entry to the person if he or she considers that the conditions for entry are not fulfilled.

Furthermore, it can legitimately be assumed that the system will lead to a reduction of the cases of refusal of entry at the border as a first assessment has taken place before the traveller departs towards the external border of the Schengen area. To reduce the number of refusals at the border will overall improve border management and will also be beneficial to carriers which subsequently have less passengers for which to assume responsibility following a refusal of entry. It will also be beneficial for travellers as those whose entry would otherwise be refused at the border would not embark.

While fully supporting the overall rationale and the main elements of the Commission's proposal the rapporteur proposes a series of amendments with the objective of further improving the proposal.

The amendments included in this draft report focus among others on:

- The avoidance of implementation problems:

More detailed rules are proposed to determine the Member State responsible for the assessment of an ETIAS, and thereby also a possible appeal. The criteria of the Member States of intended first entry should be complemented by responsibilities based on issued alerts and data provided for the ETIAS watchlist to ensure a more balanced distribution of responsibilities.

To avoid unnecessary burdens carriers transporting groups overland by coach should not fall under the carriers with obligations under this Regulation. Furthermore, a recital is proposed suggesting that carries should be able to connect to ETIAS, EES and similar systems via a unique entry-point.

To ensure a smooth functioning of the system, travellers should receive more information about ETIAS in general and regarding their specific situation in particular. They should, for example, be notified before their ETIAS expires and also be allowed to apply for a new

authorisation before the previous one expires. More information about appeal procedures should be given to ensure that the right to appeal can effectively be exercised.

In many parts it is proposed to clarify drafting, to provide for better defined provisions and to provide for more safeguards for travellers. A hit against the Interpol Stolen and Lost Travel Document database should, for example, not lead to an automatic refusal of the ETIAS but require further manual checks. Also it should be specified that each application is to be assessed on its own merits to avoid that a first refusal automatically leads to further refusals.

- Efficiency and effectiveness:

It is suggested that Member States set up specific central access points which verify whether the conditions for access by law enforcement authorities are fulfilled instead of the ETIAS national units taking this tasks. It is thereby avoided that a third authority needs to be involved in the process of accessing ETIAS which seems overly complicated.

In order to improve the border checks, border guards should when conducting second line checks have the possibility to access the ETIAS central system. In the case of a second line check when it was already considered necessary by the border guard in the first line to undertake a further check, the border authorities should have such an access in order to be able to take a more informed decision.

- Data security and data protection:

The provisions on data security and data protection are suggested to be more clearly aligned to the legal bases of the other large-scale information systems and thereby reinforced. Provisions on information security risk management as well as data protection by design and default are proposed as suggested in the opinion of the EDPS.

- Oversight and accountability:

Finally, a number of new or reinforced reporting provisions are included to ensure better transparency and thereby accountability of the system. In particular, information as to the functioning of the central unit has to be made available as the central unit will constitute the core element of the future ETIAS system.