REPORT


Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jeroen Lenaers
Symbols for procedures

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

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

Amendments to a draft act

Amendments by Parliament set out in two columns

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

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

Amendments by Parliament in the form of a consolidated text

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

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


(Ordinary legislative procedure: first reading)

The European Parliament,

– having regard to the Commission proposal to Parliament and the Council (COM(2019)0004),

– having regard to Article 294(2) and Article 77(2)(a), (b) and (d) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0024/2019),

– having regard to Article 294(3) of the Treaty on the Functioning of the European Union,

– having regard to Rule 59 of its Rules of Procedure,

– having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A9-0255/2020),

1. Adopts its position at first reading hereinafter set out;

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;

3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a regulation
Title 1

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Amendment 2

Proposal for a regulation
Recital 5

Text proposed by the Commission

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

Amendment

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

Amendment 3

Proposal for a regulation
Recital 5 a (new)

Text proposed by the Commission

(5a) The European Search Portal (ESP), established by Regulation (EU) 2019/817 of the European Parliament and of the Council, will enable the data
stored in ETIAS to be compared to the
data stored in every other EU information
system by means of a single query.

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1a Regulation (EU) 2019/817 of the
European Parliament and of the Council
of 20 May 2019 on establishing a
framework for interoperability between
EU information systems in the field of
borders and visa and amending
Regulations (EC) No 767/2008, (EU)
2018/1240, (EU) 2018/1726 and (EU)
2018/1861 of the European Parliament
and of the Council and Council Decisions
2004/512/EC and 2008/633/JHA (OJ L
135, 22.5.2019, p. 27).

Amendment 4

Proposal for a regulation
Recital 7

Text proposed by the Commission

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

Amendment

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

Amendment 5

Proposal for a regulation
Recital 10

Text proposed by the Commission

(10) The conditions under which the
access right and conditions

Amendment

(10) The access right and conditions
ETIAS Central Unit and ETIAS National Units may consult data stored in other EU information systems for the purposes of ETIAS should be safeguarded by clear and precise rules regarding the access by the ETIAS Central Unit and ETIAS National Units to the data stored in other EU information systems, the type of queries and categories of data, all of which should be limited to what is strictly necessary for the performance of their duties. In the same vein, the data stored in the ETIAS application file should only be visible to those Member States that are operating the underlying information systems in accordance with the modalities of their participation. As an example, the provisions of this Regulation relating to the Schengen Information System and the Visa Information System constitute provisions building upon all the provisions of the Schengen acquis, for which the Council Decisions\(^35\) on the application of the provisions of the Schengen acquis relating to the Schengen Information System and the Visa Information System are relevant.


Amendment 6

Proposal for a regulation
Article 1 – point -1 (new)
Regulation (EU) 2018/1240
Recital 24 a (new)

Text proposed by the Commission

(1) A new Recital 24a is added:

(24a) In order for the comparison of personal data in applications for travel authorisation as referred to in Regulation (EU) 2018/1240 with the data present in a record, file or alert registered in an EU information system or database, in Europol data or in the Interpol databases to be accurate and reliable, it is essential to ensure that data used in and queried through ETIAS are accurate, up to date and of high quality. In line with its obligations under Regulation (EU) 2019/817, the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) has an important role in monitoring data quality and producing regular data analysis reports so that the originating Member State is able to verify the data and carry out any necessary remedial action. The Commission should evaluate the regular data quality reports eu-LISA provides under Regulation (EU) 2019/817 and should issue recommendations to Member States where appropriate.

Amendment 7

Proposal for a regulation
Article 1 – point 1
Regulation (EU) 2018/1240
Article 3 – paragraph 1 – point 23
Text proposed by the Commission

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

Amendment

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

Amendment 8

Proposal for a regulation
Article 1 – point 2
Regulation (EU) 2018/1240
Article 4 – paragraph 1 – point e

Present text
(e) support the objectives of SIS related to alerts on third-country nationals subject to a refusal of entry and stay, alerts on persons wanted for arrest for surrender purposes or extradition purposes, alerts on missing persons, alerts on persons sought to assist with a judicial procedure, alerts on persons for discreet checks or specific checks;

Amendment
(e) support the objectives of SIS related to alerts on third-country nationals subject to a refusal of entry and stay, alerts on persons wanted for arrest for surrender purposes or extradition purposes, alerts on missing persons, alerts on persons sought to assist with a judicial procedure, alerts on persons for discreet checks or specific checks and alerts on third-country nationals subject to a return decision;

Amendment 9

Proposal for a regulation
Article 1 – point 3
Regulation (EU) 2018/1240
Article 6 – paragraph 3 – subparagraph 1a

Text proposed by the Commission
In particular, the ETIAS Central System shall build upon the EES Central System hardware and software components in order to establish a shared identity repository for the storage of the identity alphanumeric data of both ETIAS

Amendment
In particular, the ETIAS Central System shall build upon the EES Central System hardware and software components in order to establish a shared identity repository for the storage of the identity alphanumeric data of both ETIAS
applicants and third-country nationals registered in EES. The identity alphanumeric data of ETIAS applicants stored in the shared identity repository shall form part of the ETIAS Central System. [This shared identity repository shall be the basis for the implementation of the Common Identity Repository (‘CIR’) established by Regulation Interoperability.]

Amendment 10

Proposal for a regulation
Article 1 – point 3
Regulation (EU) 2018/1240
Article 6 – paragraph 3 – subparagraph 1b

Text proposed by the Commission

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

Amendment

This is without prejudice to keeping the EES and ETIAS data logically separated and subject to access as defined in the regulations establishing the respective information systems in line with Article 18 of Regulation (EU) 2019/817.

Amendment 11

Proposal for a regulation
Article 1 – point 3 a (new)
Regulation (EU) 2018/1240
Article 7 – paragraph 3 a (new)

Text proposed by the Commission

(3a) in Article 7, the following paragraph is added:

“3a. The ETIAS Central Unit shall provide periodical reports to the Commission and eu-Lisa concerning false hits generated during the automated processing referred to in Article 20 (2). The ETIAS Central Unit shall seek the cooperation of and information from,
Amendment 12

Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 1 – subparagraph 2

Text proposed by the Commission

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

Amendment

Interoperability shall rely on the ‘ESP’, from the date on which it starts operations, as defined in Article 72(1a) of Regulation (EU) 2019/817, for the purposes of the automated processing referred to in Article 20, Article 23, point (c)(ii) of Article 24(6), Article 41 and point (b) of Article 54(1) of this Regulation.

Amendment 13

Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 4 – introductory part

Text proposed by the Commission

4. For the purpose of proceeding to the verifications referred to in Article 20(2)(c), (m)(ii) and (o), and Article 23(1), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the SIS established by Regulation (EU) 2018/1860 (border checks) with the following data of Articles 17(2)(a) to (d) and Article 17(2)(k):

Amendment

4. For the purpose of proceeding to the verifications referred to in points (c), (m)(ii) and (na) of Article 20(2), and Article 23, the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the SIS established by Regulations (EU) 2018/1861 (border checks) and (EU) 2018/1860 (returns) of the European Parliament and of the Council with the following data of Articles 17(2)(a) to (d) and Article 17(2)(k):
Amendment 14

Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 6 – introductory part

Text proposed by the Commission

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

Amendment

6. For the purpose of proceeding to the verifications referred to in Article 20(2)(n), the automated processing referred to in Article 11(1), shall enable the ETIAS Central System to query the ECRIS-TCN data in the CIR established by Regulation (EU) 2019/818*, with the following data of Article 17(2)(a) to (d):

Amendment 15
Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 6 – point e a (new)

Text proposed by the Commission
 Amendment
(ea) country of birth;

Amendment 16
Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 8 – subparagraph 1

Text proposed by the Commission
 Amendment

8. Where hits are identified, the tool referred to in Article 11, shall make temporarily available the results in the application file to the ETIAS Central Unit, until the end of the manual process pursuant to Article 22(2) and Article 23(2). Where the data made available correspond to those of the applicant or where doubts remain, the unique ID code of the data having triggered a hit shall be kept in the application file.

Amendment 17
Proposal for a regulation
Article 1 – point 4
Regulation (EU) 2018/1240
Article 11 – paragraph 9

Text proposed by the Commission
 Amendment

9. A hit shall be triggered where all or some of the data from the ETIAS

9. A hit shall be triggered where all or some of the data from the ETIAS
application file used for the query correspond fully or partially to the data present in a record, alert or file of the other EU information systems consulted. The Commission shall, by means of an implementing act, define partial correspondence, including a degree of probability.

Amendment 18

Proposal for a regulation
Article 1 – point 5
Regulation (EU) 2018/1240
Article 11a – paragraph 1

Text proposed by the Commission

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

Amendment

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

Amendment 19

Proposal for a regulation
Article 1 – point 6
Regulation (EU) 2018/1240
Article 12 – paragraph 2

Text proposed by the Commission

2. For the purpose of paragraph 1, a cooperation agreement is to be agreed upon between the European Union and INTERPOL. This cooperation agreement shall provide for the modalities for the

Amendment

2. If the implementation of paragraph 1 by means of a cooperation agreement is not ensured, ETIAS shall not query Interpol’s databases.
exchange of information and safeguards for the protection of personal data.

Amendment 20

Proposal for a regulation
Article 1 – point 6 a (new)
Regulation (EU) 2018/1240
Article 20 – paragraph 2 – subparagraph 1

Present text

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

Amendment

(6a) in Article 20(2), the first subparagraph is replaced by the following:

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

Amendment 21

Proposal for a regulation
Article 1 – point 7
Regulation (EU) 2018/1240
Article 20 – paragraph 2 – subparagraph 2 – point n

Text proposed by the Commission

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

Amendment

(n) whether the applicant corresponds to a person whose data is recorded in the ECRIS-TCN for a conviction in the past 20 years for terrorists offences or a conviction in the past 10 years for any other serious criminal offences as listed in the Annex to Regulation (EU) 2018/1240 where those criminal offences are punishable under national law by a custodial sentence or a detention order for
a maximum period of at least three years;

Amendment 22
Proposal for a regulation
Article 1 – point 7 a (new)
Regulation (EU) 2018/1240
Article 20 – paragraph 2 – subparagraph 2 – point n a (new)

Text proposed by the Commission

Amendment

(7a) in Article 20(2), the following point is added:
“(na) whether the applicant is subject to an alert on return entered in SIS”.

Amendment 23
Proposal for a regulation
Article 1 – point 9 – point a a (new)
Regulation (EU) 2018/1240
Article 23 – paragraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(aa) the following point is added:
“(ca) an alert on third-country nationals subject to a return decision”;

Amendment 24
Proposal for a regulation
Article 1 – point 9 – point b
Regulation (EU) 2018/1240
Article 23 – paragraph 2

Text proposed by the Commission

Amendment

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

to the application file and any linked application files, in order to verify whether the applicant’s personal data correspond to the personal data contained in the alert having triggered that hit and if a correspondence is confirmed, the ETIAS Central System shall send an automated notification to the SIRENE Bureau of the Member State that entered the alert. The SIRENE Bureau concerned shall further verify whether the applicant’s personal data correspond to the personal data contained in the alert having triggered the hit and take any appropriate follow-up action.;

Amendment 25

Proposal for a regulation
Article 1 – point 10
Regulation (EU) 2018/1240
Article 25a – paragraph 1 – point d a (new)

Text proposed by the Commission

(da) Article 4 of Regulation (EU) 2018/1860 (returns);

Amendment

Amendment 26

Proposal for a regulation
Article 1 – point 10
Regulation (EU) 2018/1240
Article 25a – paragraph 2

Text proposed by the Commission

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

Amendment

2. Insofar as a hit results from a verification under point (n) of Article 20(2), the duly authorised staff of the ETIAS National Units shall also have access, in accordance with national law, to the national criminal records registers of their respective Member States in order to obtain the information on third country nationals and stateless persons convicted..
for a terrorist offence or any other criminal offence listed in the Annex to this Regulation for the purposes referred to in paragraph 1.

**Amendment 27**

Proposal for a regulation  
Article 1 – point 11 a (new)  
Regulation (EU) 2018/1240  
Article 26 – paragraph 3 a (new)

*Text proposed by the Commission*  

(11a) in Article 26 the following paragraph is inserted:

“In the event of hits on SIS Return, the ETIAS national Unit of the Member State that is processing the application shall:

(a) where the return decision is accompanied by an entry ban, immediately inform the issuing Member State through the exchange of supplementary information. The issuing Member State shall immediately delete the alert on return and enter an alert for refusal of entry and stay pursuant to point (b) of Article 24(1) of Regulation (EU) 2018/1861

(b) where the return decision is not accompanied by an entry ban, immediately inform the issuing Member State through the exchange of supplementary information, in order that the issuing Member State delete the alert on return without delay.”;

**Amendment 28**

Proposal for a regulation  
Article 1 – point 11 b (new)  
Regulation (EU) 2018/1240  
Article 38 – paragraph 2 – point c
(11b) in Article 38(2), point (c) is replaced by the following:
“(c) a statement of the grounds for refusal of the travel authorisation indicating the applicable grounds from those listed in Article 37(1) and (2), including information on which information system or systems generated a hit or hits that led to the refusal of the application, enabling the applicant to lodge an appeal. This shall be without prejudice to any limitations to the right to information as established under Union law.”;

Amendment 29
Proposal for a regulation
Article 1 – point 12 a (new)
Regulation (EU) 2018/1240
Article 46 – paragraph 1

1. Where it is technically impossible to proceed with the query referred to in Article 45(1) because of a failure of any part of the ETIAS Information System, the carriers shall be exempted of the obligation to verify the possession of a valid travel authorisation. Where such a failure is detected by eu-LISA, the ETIAS Central Unit shall notify the carriers. It shall also notify the carriers once the failure is remedied. Where such a failure is detected by the carriers, they may notify the ETIAS Central Unit.

Amendment 30
Proposal for a regulation
Article 1 – point 12 b (new)
Regulation (EU) 2018/1240
Article 46 – paragraph 4 a

Text proposed by the Commission

(b) the following paragraph is added:
“4a. The ETIAS Central Unit shall provide operational support to carriers in relation to paragraph 1 and 3 of this Article. The ETIAS Central Unit shall establish procedures to provide such support in Standard Operational Procedures. The Commission shall, by means of implementing acts, specify the nature and the extent of the support to be provided and the means to provide such support.”;

Amendment 31

Proposal for a regulation
Article 1 – point 13 – point a
Regulation (EU) 2018/1240
Article 88 – paragraph 1 – point a

Text proposed by the Commission

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

Amendment

(a) the necessary amendments to the legal acts establishing the EU information systems referred to in Article 11 with which interoperability, in the meaning of Article 11 of this Regulation, shall be established with the ETIAS Information System have entered into force, with the exception of the recast of Regulation (EU) No 603/2013 (Eurodac);

Amendment 32

Proposal for a regulation
Article 1 – point 13 – point c
Regulation (EU) 2018/1240
Article 88 – paragraph 6
6. The interoperability, referred to in Article 11, with ECRIS-TCN shall start when the CIR enters into operations, which is scheduled in 2022. ETIAS’ operations shall start irrespective of whether that interoperability with ECRIS-TCN is put in place.

Amendment 33
Proposal for a regulation
Article 1 – point 13 – point c
Regulation (EU) 2018/1240
Article 88 – paragraph 7

Text proposed by the Commission

7. ETIAS shall start its operations irrespective of whether a cooperation agreement between the European Union and INTERPOL as referred to in Article 12(2) has been concluded and irrespective of whether it is possible to query Interpol’s databases.

Amendment

7. ETIAS shall start its operations irrespective of whether it is possible to query Interpol’s databases.

Amendment 34
Proposal for a regulation
Article 1 – point 13 a – point a (new)
Regulation (EU) 2018/1240
Article 89 – paragraph 2

Present text

(13a) Article 89 is amended as follows:
(a) paragraph 2 is replaced by the following:

‘2. The power to adopt delegated acts referred to in Article 6(4), Article 11(9), Article 17(3), (5) and (6), Articles 18(4), 27(3), Article 31, Articles 33(2), 36(4), 39(2), 54(2), Article 83(1) and (3) and Article 85(3) shall be conferred on the Commission for a
period of five years from 9 October 2018. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five-year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.

Amendment 35

Proposal for a regulation
Article 1 – point 13 a – point b (new)
Regulation (EU) 2018/1240
Article 89 – paragraph 3

Present text

3. The delegation of power referred to in Article 6(4), Article 17(3), (5) and (6), Articles 18(4), 27(3), Article 31, Articles 33(2), 36(4), 39(2), 54(2), Article 83(1) and (3) and Article 85(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

(b) paragraph 3 is replaced by the following:

“3. The delegation of power referred to in Article 6(4), Article 11(9), Article 17(3), (5) and (6), Articles 18(4), 27(3), Article 31, Articles 33(2), 36(4), 39(2), 54(2), Article 83(1) and (3) and Article 85(3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.”;

Amendment 36

Proposal for a regulation
Article 1 – point 13 a – point c (new)
Regulation (EU) 2018/1240
Article 89 – paragraph 6
Amendment (c) paragraph 6 is replaced by the following:

“6. A delegated act adopted pursuant to Article 6(4), Article 11(9), Article 17(3), (5) or (6), Article 18(4), 27(3), Article 31, Article 33(2), 36(4), 39(2), 54(2), Article 83(1) or (3) or Article 85(3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and to the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.”;

Amendment 37

Proposal for a regulation
Article 1 – point 13 b (new)
Regulation (EU) 2018/1240
Article 92 – paragraph 5 – point -a (new)

Text proposed by the Commission

Amendment

(13b) in Article 92(5), the following point is inserted:

“(a) the querying of ECRIS-TCN through ETIAS;”;

Amendment 38

Proposal for a regulation
Article 2 – paragraph 1 – point 1
Regulation (EC) No 767/2008
Article 6 – paragraph 2

Text proposed by the Commission

Amendment

2. Access to the VIS for consulting

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the data shall be reserved exclusively to the duly authorised staff of the authorities of each Member State, including to duly authorised staff of the ETIAS National Units, designated pursuant to Article 8 of Regulation (EU) 2018/1240 of the European Parliament and of the Council*, which are competent for the purposes laid down in Articles 15 to 22, and for the duly authorised staff of the national authorities of each Member States and of the EU bodies which are competent for the purposes laid down in Article 6a and 6b, Articles 15 to 22, and Article 22g and for the duly authorised staff of the national authorities of each Member State and of the Union agencies which are competent for the purposes laid down in Article 20 and Article 21 of Regulation (EU) 2019/817 on interoperability limited to the extent that the data are required for the performance of their tasks in accordance with those purposes, and proportionate to the objectives pursued.

Amendment 39

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18b – paragraph 1

Text proposed by the Commission

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the ‘CS-VIS’ shall be connected to the tool referred to in Article 11 of Regulation (EU) 2018/1240 to enable the automated processing referred to in that Article.

Amendment

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the ‘CS-VIS’ shall be connected to the ESP to enable the automated processing referred to in that Article.

Amendment 40

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18b – paragraph 2 – subparagraph 2
For the purpose of proceeding to the verifications point (i) of Article 20(2) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the tool referred to in Article 11 of that Regulation to compare the data in ETIAS with the data in the VIS, in accordance with Article 11(8) of that Regulation, using the correspondences listed in the table in annex II.

Amendment 41

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18c – paragraph 1

Text proposed by the Commission

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search relevant data in VIS a read-only format and in accordance with Article 11(8) of that Regulation.

Amendment

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

Amendment 42

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18c – paragraph 2

Text proposed by the Commission

2. Where a verification by the ETIAS Central Unit confirms the correspondence between data recorded in the ETIAS application file and data in the EES or

Amendment

2. Where a verification by the ETIAS Central Unit in accordance with Article 22 of Regulation (EU) 2018/1240 confirms the correspondence between data recorded
where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies, without prejudice to Article 24 of Regulation (EU) 2018/1240. in the ETIAS application file and data in the VIS or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Amendment 43

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18d – paragraph 1

Text proposed by the Commission

1. Consultation of VIS by ETIAS National Units shall be done using the same alphanumerical data as those used for the automated processing referred to in Article 18b(2).

Amendment

1. Consultation of VIS by ETIAS National Units as referred to in Article 8(1) of Regulation (EU) 2018/1240 shall be done using the same alphanumerical data as those used for the automated processing referred to in Article 18b(2) of this Regulation.

Amendment 44

Proposal for a regulation
Article 2 – paragraph 1 – point 2
Regulation (EC) No 767/2008
Article 18d – paragraph 2

Text proposed by the Commission

2. The ETIAS National Units, designated pursuant to Article 8(1) of Regulation (EU) 2018/1240, shall have access to and may consult VIS, in a read-only format, for the purpose of examining applications for travel authorisation pursuant to Article 8(2) of that Regulation. The ETIAS National Units may consult the data referred to in Articles 9 to 14 of this Regulation.

Amendment

2. The ETIAS National Units shall have temporary access to consult VIS, in a read-only format, for the purpose of examining applications for travel authorisation pursuant to Article 8(2) of that Regulation. The ETIAS National Units may consult the data referred to in Articles 9 to 14 of this Regulation.
Amendment 45
Proposal for a regulation
Article 2 – paragraph 1 – point 3
Regulation (EC) No 767/2008
Article 34a – title

Text proposed by the Commission
Keeping of logs

Amendment
Keeping of logs for the purpose of interoperability with ETIAS

Amendment 46
Proposal for a regulation
Article 2 – paragraph 1 – point 4
Regulation (EU) 2019/816
Annex II – Table –row 1

Text proposed by the Commission
Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System

Amendment
The VIS corresponding data of Article 9(4) of this Regulation against which the ETIAS data should be checked

Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System

The corresponding VIS data of Article 9(4) of this Regulation against which data in ETIAS are to be checked

Amendment 47
Proposal for a regulation
Article 3 – paragraph 1 – point 2
Regulation (EU) 2017/2226
Article 8a – paragraph 1

Text proposed by the Commission
An automated process, using the secure communication infrastructure of Article 6(2)(d) of Regulation (EU) 2018/1240, shall enable the EES to create or update the entry/exit record or the refusal of entry record of a visa exempt third country

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

Amendment 48

Proposal for a regulation
Article 3 – paragraph 1 – point 2
Regulation (EU) 2017/2226
Article 8a – paragraph 2 – introductory part

Text proposed by the Commission

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

Amendment

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

Amendment 49

Proposal for a regulation
Article 3 – paragraph 1 – point 2
Regulation (EU) 2017/2226
Article 8a – paragraph 2 – point b a (new)

Text proposed by the Commission

(ba) to update the refusal of entry record in the EES in accordance with point (b) of Article 18(1) of this Regulation.

Amendment

Amendment 50

Proposal for a regulation
Article 3 – paragraph 1 – point 2
Regulation (EU) 2017/2226
Article 8b – paragraph 1

Text proposed by the Commission

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central System of the EES shall be connected to the tool referred to in Article 11 of

Amendment

1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central System of the EES shall be connected to the ESP to enable the automated
Regulation (EU) 2018/1240 to enable the automated processing referred to in that Article.

Amendment 51
Proposal for a regulation
Article 3 – paragraph 1 – point 2
Regulation (EU) 2017/2226
Article 8b – paragraph 2 – subparagraph 2

Text proposed by the Commission

For the purpose of proceeding to the verifications referred to in points (g) and (h) of Article 20(2) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the tool referred to in Article 11 of that Regulation to compare the data in ETIAS with the data in the EES, in accordance with Article 11(8) of that Regulation, using the correspondences listed in the table in annex III.

Amendment

For the purpose of proceeding to the verifications referred to in points (g) and (h) of Article 20(2) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the ESP to compare the data in ETIAS with the data in the EES, in accordance with Article 11(8) of that Regulation, using the correspondences listed in the table in annex III.

Amendment 52
Proposal for a regulation
Article 3 – paragraph 1 – point 5
Regulation (EU) 2017/2226
Article 25a – paragraph 1

Text proposed by the Commission

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search data in the EES in a real only formant and in accordance with Article 11(8) of that Regulation.

Amendment

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search data in the EES in accordance with Article 11(8) of that Regulation.
Amendment 53

Proposal for a regulation
Article 3 – paragraph 1 – point 5
Regulation (EU) 2017/2226
Article 25a – paragraph 2

**Text proposed by the Commission**

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

**Amendment**

2. Where a verification by the ETIAS Central Unit under Article 22 of Regulation (EU) 2018/1240 confirms the correspondence between data recorded in the ETIAS application file and data in the EES or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Amendment 54

Proposal for a regulation
Article 3 – paragraph 1 – point 6
Regulation (EU) 2017/2226
Article 28 – paragraph 1

**Text proposed by the Commission**

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

**Amendment**

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

Amendment 55

Proposal for a regulation
Article 3 – paragraph 1 – point 8
Regulation (EU) 2019/816
Annex III – Table – row 1
Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System

The EES corresponding data of Article 17(1)(a) of this Regulation against which the ETIAS data should be checked

Amendment

Data of Article 17(2) of Regulation 2018/1240 sent by ETIAS Central System

The corresponding EES data of point (a) of Article 17(1) of this Regulation against which the data in ETIAS are to be checked

Amendment 56

Proposal for a regulation
Article 4 – paragraph 1 – point 1
Regulation (EU) 2018/1861
Article 18a – title

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

Amendment
Keeping of logs for the purpose of interoperability with ETIAS

Amendment 57

Proposal for a regulation
Article 4 – paragraph 1 – point 2
Regulation (EU) 2018/1861
Article 34 – paragraph 1 – point g

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

Amendment
(h) manual processing of ETIAS applications by the ETIAS National Unit, pursuant to Article 8 of Regulation (EU) 2018/1240.
Amendment 58

Proposal for a regulation
Article 4 – paragraph 1 – point 3
Regulation (EU) 2018/1861
Article 36a – paragraph 1

Text proposed by the Commission

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search relevant data entered in SIS. The provisions of Article 36(4)-(8) apply to this access and search.

Amendment

1. The ETIAS Central Unit, established within the European Border and Coast Guard Agency in accordance with Article 7 of Regulation (EU) 2018/1240, shall have, for the purpose of performing its tasks conferred on it by Regulation (EU) 2018/1240, the right to access and search relevant data entered in SIS in accordance with Article 11(8) of that Regulation. The provisions of Article 36(4) to (8) apply to this access and search.

Amendment 59

Proposal for a regulation
Article 4 – paragraph 1 – point 3
Regulation (EU) 2018/1861
Article 36a – paragraph 2

Text proposed by the Commission

2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, where a verification by the ETIAS Central Unit confirms the correspondence of the data recorded in the ETIAS application file to an alert in SIS, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Amendment

2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, where a verification by the ETIAS Central Unit under Article 22 of Regulation (EU) 2018/1240 confirms the correspondence of the data recorded in the ETIAS application file to an alert in SIS or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Amendment 60

Proposal for a regulation
Article 4 – paragraph 1 – point 3
Regulation (EU) 2018/1861
Article 36b – paragraph 1

Text proposed by the Commission

2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, where a verification by the ETIAS Central Unit confirms the correspondence of the data recorded in the ETIAS application file to an alert in SIS, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.

Amendment

2. Without prejudice to Article 24 of Regulation (EU) 2018/1240, where a verification by the ETIAS Central Unit under Article 22 of Regulation (EU) 2018/1240 confirms the correspondence of the data recorded in the ETIAS application file to an alert in SIS or where doubts remain, the procedure set out in Article 26 of Regulation (EU) 2018/1240 applies.
1. From the start of operations of ETIAS, as provided for in Article 88(1) of Regulation (EU) 2018/1240, the Central System of SIS shall be connected to the tool referred to in Article 11 of Regulation (EU) 2018/1240 to enable the automated processing referred to in that Article.

Amendment

Proposal for a regulation
Article 4 – paragraph 1 – point 3
Regulation (EU) 2018/1861
Article 36b – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The automated processing referred to in Article 11 of Regulation (EU) 2018/1240 shall enable the verifications provided for in Article 20, point (c)(ii) of Article 24(6), Article 41 and point (b) of Article 54(1) and the subsequent verifications provided for in Articles 22 and 26 of that Regulation.

Amendment 62

Proposal for a regulation
Article 4 – paragraph 1 – point 3
Regulation (EU) 2018/1861
Article 36b – paragraph 2

Text proposed by the Commission

Amendment

2. For the purpose of proceeding to the verifications of Article 20(2)(c), (m)(ii) and (o) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the tool, referred to in Article 11 of that Regulation, to compare the data referred to in Article 11(4) Regulation (EU) 2018/1240, to data in SIS, in accordance

2. For the purpose of proceeding to the verifications of point (c) and point (m)(ii) of Article 20(2), point (c)(ii) of Article 24(6) and point (b) of Article 54(1) of Regulation (EU) 2018/1240, the ETIAS Central System shall use the ESP to compare the data referred to in Article 11(4) Regulation (EU) 2018/1240, to data in SIS, in accordance with Article 11(8) of
with Article 11(8) of that Regulation.

**Amendment 63**

**Proposal for a regulation**

**Article 4 – paragraph 1 – point 3**

Regulation (EU) 2018/1861

Article 36b – paragraph 3

*Text proposed by the Commission*

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

**Amendment 64**

**Proposal for a regulation**

**Article 4 a (new)**

*Text proposed by the Commission*

Amendments to Regulation (EU) 2019/817 (Interoperability Border)

In Article 72, the following paragraph is inserted:

“1a. Without prejudice to paragraph 1 of this Article, for the purposes of the automated processing referred to in Article 20, Article 23, point (c)(ii) of Article 24(6), Article 41 and point (b) of Article 54(1) of Regulation (EU) 2018/1240, the ESP shall start operations, limited to those purposes, once the conditions laid down in Article 88 of Regulation (EU) 2018/1240 have been
Amendment 65

Proposal for a regulation
Article 5 – paragraph 2

Text proposed by the Commission

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

Amendment

deleted
EXPLANATORY STATEMENT

Background and content of the proposal

Following the adoption, in September 2018, by the Council and the European Parliament of two legislative acts setting out ETIAS - a Regulation establishing the European Travel Information and Authorisation System (‘ETIAS’)

1 and an amendment of the Europol Regulation for the purpose of establishing ETIAS - the Commission presented its proposals for the so-called ETIAS consequential amendments.

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

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

Procedure

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

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

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factor to the quality of law making.

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

Position of the rapporteur

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

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

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

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

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

<p>| Date submitted to Parliament | 7.1.2019 |
| Committee responsible | LIBE 17.1.2019 |
| Committees asked for opinions | AFET 17.1.2019, TRAN 17.1.2019 |
| Date announced in plenary | AFET 17.1.2019, TRAN 17.1.2019 |
| Date announced in plenary | AFET 6.11.2019, TRAN 21.1.2019 |
| Committees asked for opinions | Jurgen Lenaers 24.9.2019 |
| Date appointed | Jurgen Lenaers 24.9.2019 |
| Discussed in committee | 10.9.2020, 15.10.2020, 7.12.2020 |
| Date adopted | 7.12.2020 |
| Result of final vote | +: 55, -: 9, 0: 0 |
| Substitutes present for the final vote | Delara Burkhardt, Andor Deli, Leopoldo López Gil, Kostas Papadakis, Anne-Sophie Pelletier, Rob Rooker, Domèneq Ruiz Devesa, Hilde Vautmans, Petar Vitanov |
| Date tabled | 11.12.2020 |</p>
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Key to symbols:
+ : in favour
- : against
0 : abstention