



2021/0046(COD)

25.1.2022

AMENDMENTS

7 - 31

Draft report
Birgit Sippel
(PE700.426v01-00)

Amending Regulation (EU) 2019/816 establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (ECRIS-TCN) to supplement the European Criminal Records Information System and Regulation (EU) 2019/818 on establishing a framework for interoperability between EU information systems in the field of police and judicial cooperation, asylum and migration and amending Regulations (EU) 2018/1726, (EU) 2018/1862 and (EU) 2019/816 for the purpose of introducing a screening of third country nationals at the external borders

Proposal for a regulation
(COM(2021)0096 – C9-0088/2021 – 2021/0046(COD))

Amendment 7
Pernando Barrena Arza

Proposal for a regulation

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Proposal for rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Amendment 8
Tineke Strik

Proposal for a regulation
Title 1

Text proposed by the Commission

Amendment

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
amending ***Regulation (EU) 2019/816
establishing a centralised system for the
identification of Member States holding
conviction information on third-country
nationals and stateless persons (ECRIS-
TCN) to supplement the European
Criminal Records Information System***
and Regulation (EU) 2019/818 on
establishing a framework for
interoperability between EU information
systems in the field of police and judicial
cooperation, asylum and migration and
amending Regulations (EU) 2018/1726,
(EU) 2018/1862 and (EU) 2019/816 for the
purpose of introducing a screening of third
country nationals at the external borders

Proposal for a
REGULATION OF THE EUROPEAN
PARLIAMENT AND OF THE COUNCIL
amending Regulation (EU) 2019/818 on
establishing a framework for
interoperability between EU information
systems in the field of police and judicial
cooperation, asylum and migration and
amending Regulations (EU) 2018/1726,
(EU) 2018/1862 and (EU) 2019/816 for the
purpose of introducing a screening of third
country nationals at the external borders

Or. en

Amendment 9

Tineke Strik

Proposal for a regulation

Recital 1

Text proposed by the Commission

(1) Regulation (EU) .../... [Regulation on Screening]¹⁵ provides for identity, security and health checks of third country nationals who ***are at*** the external border without fulfilling ***the*** entry conditions ***or who are apprehended within the territory, and where there are no indications that they have been subject to controls at external borders. Regulation (EU) .../... [Regulation on Screening]***¹⁶ addresses the challenges of managing mixed flows of migrants and creates uniform rules allowing for a quick identification of third country nationals and referral to the applicable procedures.

¹⁵ Regulation (EU) .../... of the European Parliament and of the Council introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817, OJ [...]

¹⁶ Op. cit. 15.

Amendment

(1) Regulation (EU) .../... [Regulation on Screening] provides for identity, security and health ***and vulnerability*** checks of third country nationals who ***have crossed*** the external border ***in an irregular manner, of those who have applied for international protection during border checks*** without fulfilling entry conditions, ***as well as of those disembarked after a search and rescue operation.***

Or. en

Amendment 10

Tineke Strik

Proposal for a regulation

Recital 2

Text proposed by the Commission

(2) ***The Regulation (EU) .../... [Regulation on Screening]***¹⁷ provides that verifications for security purposes in the framework of the screening should be carried out against the same systems as for applicants for visas or for travel

Amendment

deleted

authorisations under the European Travel Information and Authorisation System. In particular, Regulation (EU) .../... [Regulation on Screening]¹⁸ provides that the personal data of the persons submitted to the screening should be checked against Europol data, Interpol Stolen and Lost Travel Documents database (SLTD) and Interpol Travel Documents Associated with Notices database (TDAWN), as well as the European Criminal Records Information System for third country nationals (ECRIS-TCN) as regards persons convicted in relation to terrorist offences and other forms of serious criminal offences.

¹⁷ *Op. cit.* 15.

¹⁸ *Op. cit.* 15.

Or. en

Amendment 11 **Tineke Strik**

Proposal for a regulation **Recital 3**

Text proposed by the Commission

Amendment

(3) *Access to the ECRIS-TCN is necessary for the authorities designated to carry out the screening provided for in Regulation (EU) .../... [Regulation on Screening]¹⁹ in order to establish whether a person could pose a threat to internal security or to public policy.* *deleted*

¹⁹ *Op. cit.* 15.

Or. en

Amendment 12 **Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde**

Proposal for a regulation

Recital 3

Text proposed by the Commission

(3) Access to the ECRIS-TCN is necessary for the authorities designated to carry out the screening provided for in Regulation (EU) .../... [Regulation on Screening]¹⁹ in order to establish whether a person could pose a threat to internal security ***or to public policy***.

¹⁹ Op. cit. 15.

Amendment

(3) Access to the ECRIS-TCN is necessary for the authorities designated to carry out the screening provided for in Regulation (EU) .../... [Regulation on Screening]¹⁹ in order to establish whether a person could pose a threat to internal security.

¹⁹ Op. cit. 15.

Or. en

Amendment 13

Tineke Strik

Proposal for a regulation

Recital 4

Text proposed by the Commission

(4) Regulation (EU) .../... [Regulation on Screening]²⁰, which constitutes a development of the Schengen acquis regarding borders, amends Regulations (EC) No 767/2008²¹, (EU) 2017/2226²², (EU) 2018/1240²³ and (EU) 2019/817²⁴, which likewise constitute developments of the Schengen acquis regarding borders, to grant access rights for the purposes of the screening to the data contained in the Visa Information System (VIS), to the Entry-Exit System (EES) and to European Travel Information and Authorisation System (ETIAS) respectively. However, the parallel amendment of Regulation (EU) No 2019/816 to grant access rights for the purposes of the screening to ECRIS-TCN could not be part of the same regulation for reasons of variable geometry, as the

Amendment

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regulation establishing ECRIS-TCN does not constitute a development of the Schengen acquis. Regulation 2019/816 should therefore be amended by a distinct legal instrument.

²⁰ *Op. cit.* 15.

²¹ *Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) OJ L 218, 13.8.2008, p. 60–81.*

²² *Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, OJ L 327, 9.12.2017, p. 20.*

²³ *Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226 (OJ L 236, 19.9.2018, p. 1).*

²⁴ *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) 2016/399, (EU) 2017/2226, (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 14**Tineke Strik****Proposal for a regulation****Recital 5***Text proposed by the Commission**Amendment*

(5) Since the objective of this Regulation, namely to enable access to the ECRIS-TCN for the purposes of the security checks established by Regulation (EU) .../... [Regulation on Screening]²⁵, which in turn aims at the strengthening of the control of persons who are about to enter the Schengen area and their referral to the appropriate procedures, cannot be sufficiently achieved by the Member States, but can only be achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

deleted

²⁵ *Op. cit.* 15.

Amendment 15**Tineke Strik****Proposal for a regulation****Recital 6***Text proposed by the Commission**Amendment*

(6) Regulation (EU) .../... [Regulation on Screening]²⁶ provides for specific rules concerning the identification of third-country nationals by means of consulting

(6) Regulation (EU) .../... [Regulation on Screening]²⁶ provides for specific rules concerning the identification of third-country nationals by means of consulting

the Common Identity Repository (CIR) established by Regulations (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council *in order to facilitate and assist in the correct identification of persons registered in EES, VIS, ETIAS, Eurodac and ECRIS-TCN, including of unknown persons who are unable to identify themselves.*

²⁶ Op. cit. 15.

the Common Identity Repository (CIR) established by Regulations (EU) 2019/817 and (EU) 2019/818 of the European Parliament and of the Council.

²⁶ Op. cit. 15.

Or. en

Amendment 16
Tineke Strik

Proposal for a regulation
Article 1 – paragraph 1 – point 1
Regulation (EU) 2019/816
Article 1 – point e

Text proposed by the Commission

Amendment

1. In Article 1, the following point (e) is added:

deleted

“(e) the conditions under which ECRIS-TCN shall be used by the competent authorities in order to perform a security check in accordance with Regulation (EU) .../...²⁸ [Regulation on Screening]*.”

**** Regulation (EU) .../... [Regulation introducing a screening of third country nationals at the external borders and amending Regulations (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1240 and (EU) 2019/817] (OJ ...)’***

²⁸ ***OJ ...***

Or. en

Amendment 17

Tineke Strik

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2

Text proposed by the Commission

Amendment

2. Article 2 is replaced by the following: *deleted*

‘Article 2 Scope

This Regulation applies to the processing of identity information of third-country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member States where such convictions were handed down [as well as for the purposes of border management]²⁹. With the exception of point (b)(ii) of Article 5(1), the provisions of this Regulation that apply to third-country nationals also apply to citizens of the Union who also hold the nationality of a third country and who have been subject to convictions in the Member States.

This Regulation also:

(a) facilitates and assists in the correct identification of persons in accordance with this Regulation and with Regulation (EU) 2019/818;

(b) supports the objectives of Regulation (EU) .../... [Regulation on Screening] as regards the carrying out of the security checks.’

²⁹ COM/2019/3 final.

Or. en

Amendment 18

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoş Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 2

Regulation (EU) 2019/816

Article 2 – paragraph 1

Text proposed by the Commission

This Regulation applies to the processing of identity information of third-country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member States where such convictions were handed down ***[as well as for the purposes of border management]***²⁹. With the exception of point (b)(ii) of Article 5(1), the provisions of this Regulation that apply to third-country nationals also apply to citizens of the Union who also hold the nationality of a third country and who have been subject to convictions in the Member States.

²⁹ COM/2019/3 final.

Amendment

This Regulation applies to the processing of identity information of third-country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member States where such convictions were handed down. With the exception of point (b)(ii) of Article 5(1), the provisions of this Regulation that apply to third-country nationals also apply to citizens of the Union who also hold the nationality of a third country and who have been subject to convictions in the Member States.

Or. en

Amendment 19

Tineke Strik

Proposal for a regulation

Article 1 – paragraph 1 – point 3

Regulation (EU) 2019/816

Article 3 – point 6

Text proposed by the Commission

3. In Article 3, point 6 is replaced by the following:

“(6) ‘competent authorities’ means the central authorities and Eurojust, Europol, the EPPO [, the ETIAS Central Unit established within the European Border and Coast Guard Agency]³⁰ and the authorities referred to in Article 6(7) subparagraph 1 of Regulation (EU) .../... [Regulation on Screening], which are

Amendment

deleted

competent to access or query ECRIS-TCN in accordance with this Regulation;'

³⁰ *Op. cit.* 29.

Or. en

Amendment 20
Tineke Strik

Proposal for a regulation
Article 1 – paragraph 1 – point 4
Regulation (EU) 2019/816
Article 5

Text proposed by the Commission

Amendment

4. Article 5 is amended as follows: *deleted*

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

‘(c) a flag indicating, for the purpose of [Regulation (EU) 2018/1240 and of Article 11 and 12 of Regulation (EU) .../... [Regulation on Screening], that the third-country national concerned has been convicted for a terrorist offence or any other criminal offence listed in the annex to Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years, and in those cases the code of the convicting Member State(s).’;

‘7. Where hits are identified following the security checks referred to in Articles 11 and 12 of Regulation (EU) .../... [Regulation on Screening] flags and the code(s) of convicting Member State(s) as referred to in point (c) of paragraph 1 of this article shall be accessible and searchable only, respectively, by the competent authorities referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening] for the purpose of that Regulation.’

Amendment 21

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 4 – point a

Regulation (EU) 2019/816

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) a flag indicating, for the purpose of [Regulation (EU) 2018/1240 and of Article 11 and 12 of Regulation (EU) .../... [Regulation on Screening], that the third-country national concerned has been convicted for a terrorist offence or any other criminal offence listed in the annex to Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years, and in those cases the code of the convicting Member State(s).’;

Amendment

(c) a flag indicating, for the purpose of [Regulation (EU) 2018/1240 and of Article 11 and 12 of Regulation (EU) .../... [Regulation on Screening], that the third-country national concerned has been convicted for a terrorist offence or any other **serious** criminal offence listed in the annex to Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least three years, and in those cases the code of the convicting Member State(s).’;

Or. en

Amendment 22

Nadine Morano

Proposal for a regulation

Article premier – paragraph 1 – point 4 – point a

Règlement (UE) 2019/816

Article 5 – paragraph 1 – point c

Text proposed by the Commission

(c) a flag indicating, for the purpose of [Regulation (EU) 2018/1240 and of Article 11 and 12 of Regulation (EU) .../... [Regulation on Screening], that the third-country national concerned has been convicted for a terrorist offence or any other criminal offence listed in the annex to

Amendment

(c) a flag indicating, for the purpose of [Regulation (EU) 2018/1240 and of Article 11 and 12 of Regulation (EU) .../... [Regulation on Screening], that the third-country national concerned has been convicted for a terrorist offence or any other criminal offence listed in the annex to

Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least **three years**, and in those cases the code of the convicting Member State(s).’;

Regulation (EU) 2018/1240 if they are punishable under national law by a custodial sentence or a detention order for a maximum period of at least **one year**, and in those cases the code of the convicting Member State(s).’;

Or. fr

Amendment 23

Tineke Strik

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EU) 2019/816

Article 7 – paragraph 7

Text proposed by the Commission

Amendment

5. In Article 7, paragraph 7 is replaced by the following:

deleted

‘7. In the event of a hit, the central system shall automatically provide the competent authority with information on the Member States holding criminal records information on the third country national, along with the associated reference numbers referred to in Article 5(1) and any corresponding identity information. Such identity information shall only be used for the purpose of verifying the identity of the third country national concerned. The result of a search in the central system may only be used for the purposes of:

(a) making a request according to Article 6 of Framework Decision 2009/315/JHA;

(b) making a request referred to in Article 17(3) of this Regulation;

(c) [border management]³¹ ;

(d) assessing whether a third country national subject to screening checks would pose a threat to public policy or public security, in accordance with Regulation (EU) .../... [Regulation on

Screening].'

³¹ *Op. cit.* 29.

Or. en

Amendment 24

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EU) 2019/816

Article 7 – paragraph 7 – point c

Text proposed by the Commission

Amendment

(c) *[border management]*³¹ ;

deleted

³¹ *Op. cit.* 29.

Or. en

Amendment 25

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 5

Regulation (EU) 2019/816

Article 7 – paragraph 7 – point d

Text proposed by the Commission

Amendment

(d) assessing whether a third country national subject to screening checks would pose a threat to **public policy or public** security, in accordance with Regulation (EU) .../... [Regulation on Screening].

(d) assessing whether a third country national subject to screening checks would pose a threat to **internal** security, in accordance with Regulation (EU) .../... [Regulation on Screening].

Or. en

Amendment 26
Tineke Strik

Proposal for a regulation
Article 1 – paragraph 1 – point 6
Regulation (EU) 2019/816
Article 7a

Text proposed by the Commission

Amendment

6. The following Article 7a is inserted after Article 7: **deleted**

‘Article 7a

Use of ECRIS-TCN for the purposes of the Screening

‘The competent authorities referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening] shall have the right to access and search the European Criminal Records Information System for third country nationals (ECRIS-TCN) database using the European Search Portal provided for in Article 6 of Regulation (EU) 2019/818, for the purpose of performing the tasks conferred upon them by Article 11 of Regulation (EU) .../... [Regulation on Screening].

For the purpose of the security check referred to in Article 11 of Regulation (EU) .../... [Regulation on Screening], the competent authorities referred to in the first subparagraph shall only have access to data records in the CIR to which a flag has been added in accordance with Article 5(1)(c) of this Regulation.

The consultation of national criminal records based on the flagged ECRIS-TCN data shall take place in accordance with national law and using national channels. The relevant national authorities shall provide an opinion to the competent authorities referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening] within two days where the screening takes place on the territory of the Member States or within four days where the screening takes place at external borders. The absence of opinion

within these deadlines shall mean that there are no security grounds to be taken into account.’

Or. en

Amendment 27

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 6

Regulation (EU) 2019/816

Article 7a – paragraph 3

Text proposed by the Commission

The consultation of national criminal records based on the flagged ECRIS-TCN data shall take place in accordance with national law and using national channels. The relevant national authorities shall provide an opinion to the competent authorities referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening] within *two days where the screening takes place on the territory of the Member States or within* four days *where the screening takes place at external borders*. The absence of opinion within these deadlines shall mean that there are no security grounds to be taken into account.’

Amendment

The consultation of national criminal records based on the flagged ECRIS-TCN data shall take place in accordance with national law and using national channels. The relevant national authorities shall provide an opinion to the competent authorities referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening] within four days. The absence of opinion within these deadlines shall mean that there are no security grounds to be taken into account.’

Or. en

Amendment 28

Tineke Strik

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) 2019/816

Article 24 – paragraph 1

Text proposed by the Commission

Amendment

7. *In Article 24, paragraph 1 is replaced by the following:* *deleted*

‘1. The data entered into the central system and the CIR shall only be processed for the purposes of:

(a) the identification of the Member States holding the criminal records information of third-country nationals

(b) [border management]³² or

(c) screening pursuant to Article 11 of Regulation (EU) .../... [Regulation on Screening].’

³² *Op. cit. 29.*

Or. en

Amendment 29

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 1 – paragraph 1 – point 7

Regulation (EU) 2019/816

Article 24 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) [border management]³² or deleted

³² *Op. cit. 29.*

Or. en

Amendment 30

Tineke Strik

Proposal for a regulation

Article 2 – paragraph 1 – point 4

Regulation (EU) 2019/818

Article 20a – paragraph 1

Text proposed by the Commission

1. Queries of the CIR shall be carried out by the designated competent authority as referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening], solely for the purpose of verifying ***or establishing*** the identity of a person according to Article 10 of that Regulation, provided that the procedure was initiated in the presence of that person.

Amendment

1. Queries of the CIR shall be carried out by the designated competent authority as referred to in Article 6(7) of Regulation (EU) .../... [Regulation on Screening], solely for the purpose of verifying the identity of a person according to Article 10 of that Regulation, provided that the procedure was initiated in the presence of that person.

Or. en

Amendment 31

Jan-Christoph Oetjen, Sophia in 't Veld, Moritz Körner, Michal Šimečka, Hilde Vautmans, Malik Azmani, Dragoș Tudorache

Proposal for a regulation

Article 2 – paragraph 1 – point 5 – point c

Regulation (EU) 2019/818

Article 24 – paragraph 5 – subparagraph 1

Text proposed by the Commission

(5) Each Member State shall keep logs of queries that its authorities and the staff of those authorities duly authorised to use the CIR make pursuant to Articles 20, 20a, 21 and 22. Each Union agency shall keep logs of queries that its duly authorised staff make pursuant to Articles 21 and 22.

Amendment

deleted

Or. en