

ETIAS consequential amendments: ECRIS-TCN

2019/0001B(COD) - 07/06/2021 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) 2019/816 and (EU) 2019/818 as regards the establishment of the conditions for accessing other EU information systems for the purposes of the European Travel Information and Authorisation System (ETIAS).

Regulation (EU) 2018/1240 of the European Parliament and of the Council established the European Travel Information and Authorisation System (ETIAS) for third-country nationals exempt from the visa requirement when crossing the external borders of the Union. ETIAS makes it possible to assess whether the presence of such third-country nationals on the territory of the Member States would pose a security or illegal immigration risk or a high epidemic risk.

This Regulation amends Regulations (EU) 2018/816 and (EU) 2019/818 in order to connect the ETIAS central system to other EU information systems and to Europol data and specifies the data that will be exchanged between these EU information systems and Europol data.

Amendments to Regulation (EU) 2019/816

The amendments introduced clarify that Regulation (EU) 2019/816 establishes the conditions under which data in the European Criminal Records Information System for third-country nationals (ECRIS-TCN) can be used by the ETIAS Central Unit, established within the European Border and Coast Guard Agency, in order to support the objective of ETIAS by allowing a thorough assessment of the security risks posed by applicants, prior to their arrival at external border crossing points, with a view to determining whether there are factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security risk.

Entry of data in the ECRIS-TCN

For each convicted third-country national, the central authority of the convicting Member State should be required to create a data file in the Central System.

This data record should have to contain a flag indicating that the third-country national concerned has been convicted in the previous 25 years of a terrorist offence or in the previous 15 years of 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 3 years, and in these cases the code of the convicting Member State(s).

The flags and the code of the convicting Member State(s) should only be accessible and searchable by the Visa Information System (VIS) and the ETIAS system for verification purposes.

A hit in the ECRIS-TCN should not in itself mean that the third-country national concerned has been convicted in the Member States indicated. The existence of previous convictions would have to be confirmed solely on the basis of information from the criminal records of the Member States concerned.

Duration of storage of stored data

Flags should be automatically deleted at the end of the retention period referred to in the Regulation or, at the latest, 25 years after the flag was created, as regards convictions for terrorist offences, and 15 years after the flag was created, as regards convictions for other serious criminal offences.

Each processing operation of ECRIS-TCN data in the Common Identity Records (CIR) and ETIAS will have to be recorded.

Statistics

Every month eu-LISA should submit to the Commission statistics relating to the recording, storage and exchange of information extracted from criminal records through ECRIS-TCN.

eu-LISA should ensure that it is not possible to identify individuals on the basis of those statistics. At the request of the Commission, eu-LISA should provide it with statistics on specific aspects related to the implementation of this Regulation.