


Procedure file

Basic information	
<p>COD - Ordinary legislative procedure (ex-codecision 2016/0357B(COD) procedure)</p> <p>European Travel Information and Authorisation System (ETIAS): Europol tasks</p> <p>Amending Regulation (EU) No 2016/794 2013/0091(COD) See also 2016/0357A(COD)</p> <p>Subject 7.10.04 External borders crossing and controls, visas 7.30.05.01 Europol, CEPOL</p> <p>Legislative priorities Joint Declaration 2018-19</p>	<p>Procedure completed</p>

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	LIBE Civil Liberties, Justice and Home Affairs	 GÁL Kinga	25/09/2017
Council of the European Union European Commission	Committee for opinion	Rapporteur for opinion	Appointed
	BUDG Budgets	The committee decided not to give an opinion.	
	Commission DG Migration and Home Affairs Energy	Commissioner	

Key events			
16/11/2016	Initial legislative proposal published	COM(2016)0731	Summary
06/07/2017	Legislative proposal published	N8-0050/2017	Summary
14/09/2017	Committee referral announced in Parliament, 1st reading		
19/10/2017	Vote in committee, 1st reading		
19/10/2017	Committee decision to open interinstitutional negotiations with report adopted in committee		
23/10/2017	Committee report tabled for plenary, 1st reading	A8-0323/2017	Summary
23/10/2017	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 71)		
25/10/2017	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 71)		
24/04/2018	Approval in committee of the text agreed at 2nd reading interinstitutional	PE622.110 GEDA/A/(2018)003214	

	negotiations		
04/07/2018	Debate in Parliament		
05/07/2018	Results of vote in Parliament		
05/07/2018	Decision by Parliament, 1st reading	T8-0308/2018	Summary
12/09/2018	Act adopted by Council after Parliament's 1st reading		
12/09/2018	Final act signed		
12/09/2018	End of procedure in Parliament		
19/09/2018	Final act published in Official Journal		

Technical information

Procedure reference	2016/0357B(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
	Amending Regulation (EU) No 2016/794 2013/0091(COD) See also 2016/0357A(COD)
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/10997

Documentation gateway

Initial legislative proposal	COM(2016)0731	16/11/2016	EC	Summary
Document attached to the procedure	N8-0027/2017 OJ C 162 23.05.2017, p. 0009	06/03/2017	EDPS	Summary
Legislative proposal	N8-0050/2017	07/07/2017	CSL	Summary
Committee draft report	PE610.900	03/10/2017	EP	
Amendments tabled in committee	PE612.038	05/10/2017	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0323/2017	23/10/2017	EP	Summary
Text agreed during interinstitutional negotiations	PE622.110	25/04/2018	EP	
Coreper letter confirming interinstitutional agreement	GEDA/A/(2018)003214	27/04/2018	CSL	
Text adopted by Parliament, 1st reading/single reading	T8-0308/2018	05/07/2018	EP	Summary
Commission response to text adopted in plenary	SP(2018)547	12/09/2018	EC	
Draft final act	00022/2018/LEX	12/09/2018	CSL	

Final act

[Regulation 2018/1241](#)
[OJ L 236 19.09.2018, p. 0072](#) Summary

European Travel Information and Authorisation System (ETIAS): Europol tasks

PURPOSE: to establish a European Travel Information and Authorisation System (ETIAS) in order to improve external border management.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: in its Communication of September 2016 entitled '[Enhancing security in a world of mobility](#)', the Commission confirmed the need to strike the right balance between ensuring mobility and enhancing security, while facilitating legal entry into the Schengen area without the need for a visa.

Today, around 1.4 billion people from around 60 countries worldwide can benefit from visa-free travel to the European Union. The number of visa-exempt third country nationals to the Schengen countries will continue to grow, with an expected increase of over 30% in the number of visa exempt third country nationals crossing the Schengen borders by 2020, from 30 million in 2014 to 39 million in 2020. These figures demonstrate the need to put in place a system that is able to achieve objectives similar to the visa regime, namely to assess and manage the potential irregular migration and security risks represented by third country nationals visiting the EU, yet in a lighter and more visitor-friendly way, in line with the objectives of the EU's visa liberalisation policy.

IMPACT ASSESSMENT: the ETIAS legal proposal is based on the results of the [feasibility study](#) conducted from June till October 2016.

CONTENT: the draft regulation proposes the establishment of the European Travel Information and Authorisation System (ETIAS), which will be an EU system for visa-exempt third country nationals when crossing the external borders, and allow determination of whether the presence of such persons on the territory of the Member States would pose an irregular migration, security or public health risk.

For this purpose a travel authorisation would be introduced as a new condition for entering the Schengen area and the absence of a valid ETIAS travel authorisation would result in a refusal of entry into the Schengen area. Moreover, where applicable, carriers would have to check that their passengers have a valid ETIAS travel authorisation before allowing them to board their transportation means bound to a Schengen country.

Prior to the intended travel, the applicant will create an on-line application, via a dedicated website or the mobile application.

Functions: the key functions of ETIAS will be to:

- verify the information submitted by visa-exempt third country nationals (such as information related to identity, travel document, residence information, contact details etc.), via an online application ahead of their travel to the EU's external borders, to assess if they pose a risk for irregular migration, security or public health;
- automatically process each application submitted via the website or mobile application against other EU information systems (such as SIS, VIS, Europol's database, Interpol's database, the EES, Eurodac, ECRIS), a dedicated ETIAS watch list (established by Europol) and targeted, proportionate and clearly defined screening rules to determine if there are factual indications or reasonable grounds to issue or refuse a travel authorisation;
- issue travel authorisations. In cases where no hits or elements requiring further analysis are identified, the travel authorisation is issued automatically within minutes after the application has been submitted. The authorisation will be valid for a period of five years and for multiple entry. An application fee of EUR 5 will apply to all applicants above the age of 18.

Scope: ETIAS will apply to visa-exempt third country nationals. The following shall be excluded from the scope: holders of long-stay visas, holders of a local border traffic permits, citizens of the micro-states in the Schengen area, holders of diplomatic passports and crew members of ships or aircraft while on duty.

Management of the system: the ETIAS will be managed by the European Border and Coast Guard in close cooperation with the competent authorities of the Member States and Europol. The Agency eu-LISA will develop and provide technical management of this information system. The final decision on allowing entry into the Schengen Area will still rest with the border guards at the external border in line with the [Schengen Border Code](#).

Participation: the proposed Regulation constitutes a development of the Schengen acquis; therefore, the United Kingdom and Ireland do not participate in the adoption of the Regulation and are not bound by it or subject to its application.

Denmark shall decide within six months of the Council's decision on this Regulation whether to transpose it into national law or not.

BUDGETARY IMPLICATIONS: the amount needed has been assessed as EUR 212.1 million. During the development phase (2018-2020), the Commission will spend a total amount of EUR 4.2 million (via shared management) for the expenses related to operations in Member States.

From 2020, when the new system will be operational, future operational costs in Member States could be supported by their national programmes in the framework of shared management.

From the same year, the ETIAS System will generate fee revenue, which will be treated as external assigned revenue. Based on the current estimates of the number of applications, the fee revenue will more than cover the direct development and running cost of the ETIAS. In turn, this will allow the financing of related expenditure in the field of Smart Borders.

DELEGATED ACTS: in order to establish the technical measures needed for the application of the Regulation, the Commission will have the power to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the EU.

European Travel Information and Authorisation System (ETIAS): Europol tasks

Members recalled that according to the proposal, the system would require visa-exempt travellers to undergo a risk assessment with respect to security, irregular migration and public health risks prior to their arrival at the Schengen borders. This assessment would be carried out by means of cross-checking applicant's data submitted through ETIAS against other EU information systems, a dedicated ETIAS watchlist and screening rules.

The EDPS considers that there is a need for conducting an assessment of the impact that the proposal will entail on the right to privacy and the right to data protection enshrined in the Charter of Fundamental Rights of the EU, which will take stock of all existing EU-level measures for migration and security objectives. The establishment of ETIAS would have a significant impact on the right to the protection of personal data, since various kinds of data, collected initially for very different purposes, will become accessible to a broader range of public authorities (i.e. immigration authorities, border guards, law enforcement authorities, etc.).

Moreover, the ETIAS proposal raises concerns regarding the process of determining the possible risks posed by the applicant. The EDPS understands that the legislator's objective is to create a tool enabling the automatic singling out of visa-exempt third country nationals suspected of posing such risks. Nonetheless, profiling, as any other form of computerised data analysis applied to individuals, raises serious technical, legal and ethical questions.

Since the proposal establishes an additional system involving the processing of a significant amount of personal data of third country nationals for immigration and security objectives, the EDPS:

- intends to include a definition of irregular migration risks and security risks in the Proposal to comply with the purpose limitation principle;
- recommends that the proposed ETIAS screening rules be subject to a prior comprehensive assessment of their impact on fundamental rights;
- calls for convincing evidence supporting the necessity of using profiling tools for the purposes of ETIAS;
- questions the relevance of collecting and processing health data;
- calls for a better justification of the chosen data retention period and of the necessity of granting access to national law enforcement agencies and Europol.

In addition to the main concerns, the EDPS recommendations include, inter alia: (i) the necessity and proportionality of the set of data collected; (ii) the interoperability of ETIAS with other IT systems; (iii) the data subjects' rights and provided remedies; (iv) the independent review of the conditions for access by law enforcement authorities; (v) the architecture and information security of the ETIAS; (vi) the statistics generated by the system.

European Travel Information and Authorisation System (ETIAS): Europol tasks

PURPOSE: to revise the Europol Regulation (Regulation (EU) 2016/794) with regard to the European travel information and authorisation system (ETIAS).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with Council.

BACKGROUND: on 9 June 2017, the Council agreed a general approach on ETIAS. The general approach constitutes the Council's position for negotiations with the European Parliament.

For legal reasons, it was decided to split the proposal into two texts ([2016/357A\(COD\)](#) and [2016/357B\(COD\)](#)) given that the proposal contains a formal amendment of the [Europol Regulation](#) in order to give Europol new tasks.

Europol does not belong to the Schengen acquis while ETIAS will fully belong to the Schengen acquis as regards external borders.

Given the differentiated geometry (Europol with 27 Member States, without Denmark and ETIAS 26 Members States, including Denmark but without the United Kingdom and Ireland), it is necessary to split the proposal into two texts to allow a differentiated participation and vote in the Council.

It should be stressed that this splitting shall not in any way affect the substance of ETIAS.

CONTENT: more specifically, as regards the amendment to the Europol Regulation which is the aim of this proposal, the tasks of Europol shall be extended to cover the following tasks:

- develop and host the ETIAS watchlist (people suspected to have committed, or be likely to commit a criminal offence);
- provide information to the ETIAS as regards terrorist offences or other serious criminal offences;
- provide an opinion following a consultation request from the ETIAS National Unit of the responsible Member State in cases falling under Europol's mandate.

As regards to information stored by Europol, the amended text stipulates that Europol shall take all appropriate measures to enable the European Border and Coast Guard Agency to have direct access on the basis of a hit/no hit system to information as regards the processing of personal data.

In the case of a hit, Europol shall initiate the procedure by which the information that generated the hit may be shared and only to the extent that the data generating the hit are necessary for the performance of the European Border and Coast Guard Agency tasks related to ETIAS.

European Travel Information and Authorisation System (ETIAS): Europol tasks

European Parliament and of the Council amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS).

The committee recommended that the European Parliaments position, adopted at first reading under the ordinary legislative procedure, should amend the Commission proposal as follows:

Processing of information for the purpose of the ETIAS watch list: Members proposed that the Management Board, after consulting the European Data Protection Supervisor (EDPS), shall adopt guidelines further specifying the procedures for the processing of information for the purpose of the ETIAS watch list.

Application: the Regulation shall apply from the date determined by the Commission in accordance with a Regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS).

European Travel Information and Authorisation System (ETIAS): Europol tasks

The European Parliament adopted by 489 votes to 117, with 28 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS).

The European Parliaments position, adopted at first reading under the ordinary legislative procedure, amended the Commission proposal as follows:

Regulation (EU) 2016/794 of the European Parliament and of the Council on the European Union Agency for law enforcement cooperation (Europol) shall be amended to allocate new tasks assigned to Europol by the [Regulation](#) of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS), such as the management of the ETIAS watchlist, the entry of data related to terrorist offences or other serious criminal offences into that watchlist and the provision of opinions following consultation requests by the ETIAS National Units.

It is also specified that the United Kingdom, Ireland and Denmark shall not participating in the adoption of the Regulation.

European Travel Information and Authorisation System (ETIAS): Europol tasks

PURPOSE: to amend Regulation (EU) 2016/794 to implement the new tasks allocated to the European Union Agency for Law Enforcement Cooperation (Europol) in the framework of the establishment of a European Travel Information and Authorisation System (ETIAS).

LEGISLATIVE ACT: Regulation (EU) 2018/1241 of the European Parliament and of the Council amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS).

CONTENT: this Regulation amends [Regulation \(EU\) 2016/794](#) of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation (Europol) to enable the implementation of the new tasks assigned to Europol by [Regulation \(EU\) 2018/1241](#) of the European Parliament and of the Council establishing a European Travel Information and Authorization System (ETIAS). These tasks include the management of the ETIAS watchlist, the entry of data related to terrorist offences or other serious criminal offences into that watchlist and the provision of opinions following consultation requests by the ETIAS National Units.

Europol must take all appropriate measures to enable the European Border and Coast Guard Agency, within its mandate and for the purposes of the ETIAS Regulation, to have indirect access on the basis of a hit/no hit system to the Europol database, without prejudice to any restrictions indicated by the Member State, Union body, third country or international organisation providing the information in question.

In the case of a hit, Europol will initiate the procedure by which the information that generated the hit may be shared, in accordance with the decision of the provider of the information to Europol, and only to the extent that the data generating the hit are necessary for the performance of the European Border and Coast Guard Agency tasks related to ETIAS.

ENTRY INTO FORCE: 9.10.2018.