ETIAS consequential amendments: ECRIS-TCN

2019/0001B(COD) - 30/03/2021 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Civil Liberties, Justice and Home Affairs adopted the report by Jeroen LENAERS (EPP, NL) 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.

On 11 February 2021, the Conference of Presidents took the decision to authorise the Committee on Civil Liberties, Justice and Home Affairs to split the Commission proposal into two parts and to draw up two separate legislative reports on this basis.

As a reminder, 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 requirement to be in possession of a visa when crossing external borders. It laid down the conditions and procedures for issuing or refusing a travel authorisation under that system.

ETIAS enables consideration of whether the presence of those third-country nationals in the territory of the Member States would pose a security, illegal immigration or high epidemic risk.

In order to enable the processing of application files by the ETIAS Central System, the proposed amending regulation defines the modalities of interoperability between the ETIAS information system, other EU information systems and Europol data, as well as the conditions for the consultation of data stored in other EU information systems and Europol data should be implemented in the ETIAS automated processing for the purpose of identifying hits.

Accordingly, this regulation amends Regulations (EU) 2019/816 and (EU) 2019/818 of the European Parliament and of the Council in order to connect the ETIAS Central System to the other EU information systems and to Europol data and to specify the data that will be sent to and from those EU information systems and Europol data.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Subject matter of Regulation (EU) 2019/816

The amendments introduced clarify that Regulation (EU) 2019/816 establishes the conditions under which data contained in the European Criminal Records Information System for third-country nationals (ECRIS-TCN) may be used by the ETIAS Central Unit in order to allow for a thorough assessment of the security risks posed by applicants before their arrival at external border crossing points.

Entry of data in the ECRIS-TCN

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

This file should contain a flag indicating that the third-country national concerned has been convicted in the past 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, 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, and in those cases the code of the convicting Member State(s).

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

Retention period of stored data

The flags should be erased automatically upon the expiry of the retention period referred to in paragraph 1 of this Article or at the latest, 25 years after the creation of the flag, as far as convictions related to terrorist offences are concerned, and 15 years after the creation of the flag, as far as convictions related to other serious criminal offences are concerned Each ECRIS-TCN data processing operation in the Common Identity Records (CIR) and ETIAS should be recorded.