Basic information

2019/0002(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
ETIAS consequential amendments: borders and visa Amending Regulation 2008/0767 2004/0287(COD) Amending Regulation 2017/2226 2016/0106(COD) Amending Regulation 2018/1240 2016/0357A(COD) Amending 2016/0408(COD) **Subject** 7.10.04 External borders crossing and controls, visas **Legislative priorities** Joint Declaration 2021	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs	LENAERS Jeroen (EPP)	24/09/2019
	Shadow rapporteur VITANOV Petar (S&D) TUDORACHE Dragoş (Renew) BREYER Patrick (Greens/EFA) BUXADÉ VILLALBA Jorge (ECR) BERG Lars Patrick (ID)	

Former committee responsible	Former rapporteur	Appointed
LIBE Civil Liberties, Justice and Home Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
AFET Foreign Affairs	The committee decided not to give an opinion.	
TRAN Transport and Tourism	The committee decided not to give an opinion.	

Former committee for opinion	Former rapporteur for opinion	Appointed
AFET Foreign Affairs		
TRAN Transport and Tourism		

Council of the European Union	
European Commission	Commission DG: Migration and Home Affairs; Commissioner: JOHANSSON Ylva

Key events

Date	Event	Reference	Summary
07/01/2019	Legislative proposal published	COM(2019)0004	Summary
17/01/2019	Committee referral announced in Parliament, 1st reading		
21/10/2019	Resumption of business from the previous parliamentary term		
07/12/2020	Vote in committee, 1st reading		
07/12/2020	Committee decision to open interinstitutional negotiations with report adopted in committee		
11/12/2020	Committee report tabled for plenary, 1st reading	A9-0255/2020	Summary
14/12/2020	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
16/12/2020	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
13/04/2021	Approval in committee of the text agreed at 1st reading interinstitutional negotiations		
07/06/2021	Decision by Parliament, 1st reading	T9-0264/2021	Summary
07/06/2021	Results of vote in Parliament		
07/06/2021	End of procedure in Parliament		
28/06/2021	Act adopted by Council after Parliament's 1st reading		
07/07/2021	Final act signed		
14/07/2021	Final act published in Official Journal		

Technical information

Procedure reference	2019/0002(COD)

Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Amendments and repeals	Amending Regulation 2008/0767 2004/0287(COD) Amending Regulation 2017/2226 2016/0106(COD) Amending Regulation 2018/1240 2016/0357A(COD) Amending 2016/0408(COD)
Legal basis	Treaty on the Functioning of the European Union TFEU 077-p2
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/9/00412

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE655.702	02/09/2020	
Amendments tabled in committee		PE658.805	01/10/2020	
Committee report tabled for plenary, 1st reading/single reading		A9-0255/2020	11/12/2020	Summary
Text adopted by Parliament, 1st reading/single reading		T9-0264/2021	07/06/2021	Summary

Council of the EU

Document type	Reference	Date	Summary
Draft final act	00017/2021/LEX	07/07/2021	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2019)0004	07/01/2019	Summary
Commission response to text adopted in plenary	SP(2021)472	26/07/2021	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2021/1152
OJ L 249 14.07.2021, p. 0015

ETIAS consequential amendments: borders and visa

2019/0002(COD) - 07/01/2019 - Legislative proposal

PURPOSE: to define the technical amendments necessary to fully set up 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 the Council.

BACKGROUND: Regulation (EU) 2018/1240 of the European Parliament and of the Council created 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 to issue or refuse a travel authorisation.

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.

The ETIAS Regulation provides that the personal data contained in the applications will be compared with the data contained in records, files or alerts:

- in alerts recorded in other EU information systems or databases (the ETIAS Central System, the Schengen Information System (SIS), the Visa Information System (VIS), the Entry/Exit System (EES) or Eurodac), and the European Criminal Records Information System for third-country nationals (ECRIS-TCN);

- in Europol data;

- in the Interpol databases (the Interpol Stolen and Lost Travel Document database (SLTD) or the Interpol Travel Documents Associated with Notices database (TDAWN)).

Not all data are collected or recorded in the same way in the other EU information systems and Europol data. For instance, ‘first names of parents of applicants’ are collected by ETIAS, but not in most of the other systems to be queried by ETIAS.

In order to enable the verification referred to in Article 20 of Regulation (EU) 2018/1240, it is necessary to amend the legal acts establishing the European Union's information systems to ensure interoperability with ETIAS. Without this interoperability, ETIAS cannot enter into service.

CONTENT: the proposal defines the technical amendments necessary to fully set up the ETIAS system. It amends the legal acts establishing the EU information systems that are necessary for establishing their relation with ETIAS.

As a result, it is necessary to amend Regulations of the European Parliament and of the Council (EU) 2018/1240, (EC) No 767/2008, (EU) 2017/2226, (EU) 2018/1861 (SIS border) 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.

As compared to the ETIAS Regulation, this proposal only specifies in more details which data is to be compared to which data in the other EU information systems and provides with the necessary amendments as regards granting access rights to those other systems to ETIAS Central and National Units.

This proposal therefore presents 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. This shared identity repository would be the basis for the implementation of the common identity repository once the co-legislators adopt the legislative proposals on the interoperability of information systems.

The proposal builds on the Schengen acquis on the crossing of external borders and visas. It therefore takes into account the consequences of the various protocols and agreements signed with the associated countries.

ETIAS consequential amendments: borders and visa

2019/0002(COD) - 11/12/2020 - 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 establishing the conditions for accessing other EU information systems for ETIAS purposes and amending Regulation (EU) 2018/1240, Regulation (EC) No 767/2008, Regulation (EU) 2017/2226 and Regulation (EU) 2018/1861.

As a reminder, the proposal for a regulation defines the technical amendments necessary to fully set up the European Travel Information and Authorisation System (ETIAS). It amends the legal acts establishing the EU information systems that are necessary for establishing their relation with ETIAS.

The committee considered that, following the recommendations of the substitute impact assessment by the European Parliament Research Services, improvements were needed as regards certain articles.

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

Automated processing

The ETIAS Central System should compare the relevant data to the data present in a record, file or alert registered in the ETIAS Central System, SIS, the EES, VIS, Eurodac, ECRIS-TCN, Europol data and Interpol SLTD and TDAWN databases.

In particular, the ETIAS Central System should verify:

- 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;

- whether the applicant is subject to an alert on return entered in SIS.

ETIAS Central Unit

Members proposed that the ETIAS Central Unit should provide periodical reports to the Commission and eu-Lisa concerning false hits generated during the automated processing. The Central Unit should seek the

cooperation of and information from ETIAS National Units in that regard.

Manual processing of applications by the ETIAS National Units

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

- 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 should immediately delete the alert on return and enter an alert for refusal of entry and stay;

- 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.

Where hits are identified, the European Search Portal should provide temporary read-only access to the results of the automated processing in the application file to the ETIAS Central Unit, until the end of the manual process. 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 should be kept in the application file.

Fallback procedures in the case of a technical impossibility to access data by carriers

Members stressed that the ETIAS Central Unit should provide operational support to carriers. The ETIAS Central Unit should establish procedures to provide such support in Standard Operational Procedures. The Commission should, by means of implementing acts, specify the nature and the extent of the support to be provided and the means to provide such support.

ETIAS consequential amendments: borders and visa

2019/0002(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 establishing the conditions for accessing other EU information systems for ETIAS purposes and amending Regulation (EU) 2018/1240, Regulation (EC) No 767 /2008, Regulation (EU) 2017/2226 and Regulation (EU) 2018/1861.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Access from the ETIAS Central Unit to other EU information systems, Europol data and Interpol databases

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 of the European Parliament and of the Council (EU) 2018/1240, (EC) No 767/2008, (EU) 2017/2226, (EU) and 2018/1861 in order to enable the ETIAS central system to carry out checks against the Schengen Information System (SIS), the Visa Information System (**VIS**) the Entry/Exit System (**EES**), **Eurodac** and the database on criminal records of third-country nationals (**ECRIS-TCN**), as well as **Europol** data and the **Interpol** databases on Stolen and Lost Travel Documents (SLTD) and Travel Documents Associated with Notices (TDAWN).

The amending regulation allows the connection of the ETIAS Central System to these databases and defines the data that can be accessed for ETIAS purposes, as well as the **conditions and rights of access** of the ETIAS Central Unit and the ETIAS National Units. Access to the relevant data in these systems should enable the authorities to assess the security or immigration risk of applicants and to decide whether to issue or refuse a travel authorisation.

Access by Member States, through the ETIAS National Units, to other EU information systems should be in accordance with their participation in the various legal instruments.

Application form and personal data of the applicant

The amended text specifies that the applicant will have to answer the questions by indicating whether he or she 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, and if so when and in which country.

Automated processing

The ETIAS Central System should send an automated notification to the ETIAS Central Unit.

The **European Search Portal (ESP)**, established by Regulation (EU) 2019/817 and Regulation (EU) 2019/818 of the European Parliament and of the Council, should enable the data stored in ETIAS and the data stored in the other EU information systems concerned to be queried in parallel.

The ETIAS Central System should verify:

- whether the travel document used for the application corresponds to a travel document reported lost, stolen, misappropriated or invalidated in SIS;

- whether the applicant is subject to a refusal of entry and stay alert entered in SIS;

- whether the applicant is currently reported as an overstayer or whether he or she has been reported as an overstayer in the past in the EES;

- whether the applicant is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS.

Where there are doubts about the identity of the applicant or where the automated verifications have reported a hit, the application should be processed manually by the competent authorities.

The ETIAS Central Unit should provide periodical reports to the Commission and eu-LISA on false hits that are generated during the automated checks.

Refusal of authorisation

Applicants who have been refused a travel authorisation should have the right to appeal. Appeals should be conducted in the Member State that has taken the decision on the application and in accordance with the national law of that Member State.

During the appeal procedure, the appellant should be given access to the information in the application file in accordance with the data protection rules of this Regulation. The ETIAS National Unit of the Member State responsible should provide applicants with information regarding the appeal procedure. That information should be provided in one of the official languages of the countries listed in Annex II to Regulation (EC) No 539/2001 of which the applicant is a national.

Fallback procedures in case of technical impossibility of access to data by carriers

Where technical difficulties make it impossible for carriers to access the ETIAS Information System through the carrier gateway, the ETIAS Central Unit should provide operational support to carriers in order to limit the impact on passenger travel and carriers to the extent possible.

Implementation

The Commission may adopt delegated acts concerning the definition of the conditions for matching data contained in a record, alert or file of other EU information systems consulted with data contained in an ETIAS application file.

It may adopt implementing acts (i) to establish the technical arrangements for the implementation of certain data retention provisions and to further specify the rules concerning the support to be provided to carriers by the ETIAS Central Unit and (ii) to lay down the details of fallback procedures in case of technical impossibility for carriers to access the data and to further specify the rules concerning the support to be provided to carriers by the ETIAS Central Unit.