

Updated 22 December. Council comments marked **yellow**. LIBE comments marked **green**.
 Texts still under discussion marked **blue**.

Draft

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)

	Article 70 of Commission proposal (ST 14082/16)	EP amendments	Draft Regulation proposed by Council (ST 10017/17 ADD 1)	Compromise text proposals
1.			<u>THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,</u>	
2.			<u>Having regard to the Treaty of the Functioning of the European Union, and in particular, Article 88(2)(a) thereof,</u>	
3.			<u>Acting in accordance with the ordinary legislative procedure,</u>	
4.			<u>Whereas:</u>	
5.			<u>(1) The ETIAS Regulation allocates new tasks to Europol such as the development and hosting of the ETIAS watchlist, the provision of information related to terrorist offences or other serious criminal offences to this watchlist and the provision of opinions following consultation requests by the ETIAS National Units. To implement these tasks, it is therefore necessary to amend Regulation (EU) 2016/794 accordingly.</u>	Has not been discussed yet
6.			<u>(2) The resources required by Europol for the purpose of implementing its tasks as set out in this</u>	Has not been discussed yet

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			<u>Regulation should be taken into account, in line with the existing applicable procedures.</u>	
7.			(3) <u>[In accordance with Articles 1, 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]</u>	Standard recital
8.			(4) <u>[In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, the United Kingdom has notified (, by letter of ...) its wish to take part in the adoption and application of this Regulation.]</u>	Standard recital
9.			(5) <u>[In accordance with Articles 1, 2 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed</u>	Standard recital

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			to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.]	
10.			(6) [In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Ireland has notified (, by letter of ...) its wish to take part in the adoption and application of this Regulation.]	Standard recital
11.			(7) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.	Standard recital
12.			HAVE ADOPTED THIS REGULATION:	
13.			<i>Article 1 Amendments to Regulation (EU) 2016/794</i>	Provisionally agreed <i>Article 1 Amendments to Regulation</i>

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				<i>(EU) 2016/794</i>
14.	Regulation (EU) 2016/794 is amended as follows:		Regulation (EU) 2016/794 is amended as follows:	Agreed text Regulation (EU) 2016/794 is amended as follows:
15.	1. In Article 4 paragraph 1, the following point (n) is added:		1. In Article 4 paragraph 1, the following points (n), (o) and (p) are added:	Provisionally agreed 1. In Article 4 paragraph 1, the following points (n), (o) and (p) are added:
16.		Amendment 1 Article 70(1)(1)		
17.	"(n) establish, manage and update the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with Article 18(2)(a)."	(n) establish, manage and update the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with Article 18(2)(a). <i>The Management Board shall adopt guidelines further specifying the procedures for the processing of information for the purpose of the ETIAS watchlist, after consulting the EDPS.</i>	"(n) establish, manage and update <u>develop and host</u> the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with <u>on the basis of Article 18(2)(a). The Management Board shall adopt guidelines further specifying the procedures for any processing of information for the purpose of hosting the ETIAS watchlist as set out in the [ETIAS Regulation], after consulting the EDPS;</u>	To be further discussed
18.			(o) <u>provide information to the ETIAS watchlist related to terrorist offences or other serious criminal offences obtained by Europol through international cooperation, without</u>	Provisionally agreed (alignment with deletion of Article 29(2)(c) in row 705) (o) provide information to the ETIAS watchlist related to

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			<u>prejudice to the conditions regulating Europol's international cooperation;</u>	terrorist offences or other serious criminal offences obtained by Europol through international cooperation , without prejudice to the conditions regulating Europol's international cooperation;
19.			(p) <u>provide an opinion following a consultation request referred to in Article 25 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)]."</u>	Provisionally agreed (p) provide an opinion following a consultation request referred to in Article 25 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)]."
20.	2. Article 21 is amended as follows:		2. Article 21 is amended as follows:	Agreed text 2. Article 21 is amended as follows:
21.	(a) the title is replaced by the following:		(a) the title is replaced by the following:	Agreed text (a) the title is replaced by the following:
22.	"Article 21		"Article 21	Agreed text "Article 21
23.	Access by Eurojust, OLAF and the European Borders and Coast Guard Agency only for purposes of ETIAS to information stored by Europol"		Access by Eurojust, OLAF and, <u>only for purposes of ETIAS</u> , by the European Border and Coast Guard Agency to information stored by Europol"	Provisionally agreed Access by Eurojust, OLAF and, only for purposes of ETIAS, by the European Border and Coast Guard Agency to information stored by Europol"
24.	(b) the following paragraph 1a is inserted:		(b) the following paragraph 1a is inserted:	Agreed text (b) the following paragraph

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				1a is inserted:
25.	"Europol shall take all appropriate measures to enable the European Borders and Coast Guard Agency, within its mandate and for the purposes of Regulation [Regulation establishing a European Travel Information and Authorisation System (ETIAS)], to have indirect access on the basis of a hit/no hit system to information provided for the purposes of point (a) of Article 18(2) without prejudice to any restrictions indicated by the Member State, Union body, third country or international organisation providing the information in question, in accordance with Article 19(2).		"1a. Europol shall take all appropriate measures to enable the European Border and Coast Guard Agency, within its mandate and for the purposes of Regulation [Regulation establishing a European Travel Information and Authorisation System (ETIAS)], to have indirect access on the basis of a hit/no hit system to information provided for the purposes of point (a) of Article 18(2) without prejudice to any restrictions indicated by the Member State, Union body, third country or international organisation providing the information in question, in accordance with Article 19(2).	Agreed text "1a. Europol shall take all appropriate measures to enable the European Border and Coast Guard Agency, within its mandate and for the purposes of Regulation [Regulation establishing a European Travel Information and Authorisation System (ETIAS)], to have indirect access on the basis of a hit/no hit system to information provided for the purposes of point (a) of Article 18(2) without prejudice to any restrictions indicated by the Member State, Union body, third country or international organisation providing the information in question, in accordance with Article 19(2).
26.	In the case of a hit, Europol shall 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		In the case of a hit, Europol shall 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	Agreed text In the case of a hit, Europol shall 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

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	Borders and Coast Guard Agency tasks related to ETIAS.		Agency tasks related to ETIAS.	generating the hit are necessary for the performance of the European Border and Coast Guard Agency tasks related to ETIAS.
27.	Paragraphs 2 to 7 of this Article shall apply accordingly."		Paragraphs 2 to 7 of this Article shall apply accordingly".	Agreed text Paragraphs 2 to 7 of this Article shall apply accordingly".
28.		Amendment 2 Article 82(1a) new		
29.		<i>This Regulation shall apply from the date determined by the Commission in accordance with Article 77 [Regulation of the European Parliament and of the Council establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 515/2014, (EU) 2016/399 and (EU) 2016/1624].</i>		Under scrutiny by CLS
30.			<i>Article 2 Entry into force and applicability</i>	Provisionally agreed <i>Article 2 Entry into force and applicability</i>
31.			<u>This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the</i></u>	Provisionally agreed This Regulation shall enter into force on the twentieth day

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			<i>European Union.</i>	following that of its publication in the <i>Official Journal of the European Union.</i>
32.			<u>This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.</u>	Provisionally agreed This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.
33.			<u>Done at Brussels.</u>	Done at Brussels,
34.			<u>For the European Parliament</u> <u>The President</u> <u>For the Council</u> <u>The President</u>	For the European Parliament The President For the Council The President