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NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	10190/18, 10617/18
Subject:	Amended proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on establishing a framework for interoperability between EU information systems (police and judicial cooperation, asylum and migration) and amending [Regulation (EU) 2018/XX [the Eurodac Regulation],] Regulation (EU) 2018/XX [the Regulation on SIS in the field of law enforcement], Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] and Regulation (EU) 2018/XX [the eu-LISA Regulation]

With a view to the JHA Counsellors meeting on interoperability of EU information systems on 19 July 2018, delegations will find hereafter the amendments to the proposal for the aforementioned Regulation, as revised by the Presidency.

Changes to the Commission proposal (ST 10190/18) are marked in **bold** and ~~strikethrough~~.

New changes to the Commission proposal compared to ST 10617/18 are marked in **bold underline** and ~~strikethrough underline~~.

CHAPTER VIIIa Amendments to other Union instruments¹

[Article 55a
Amendments to Regulation (EU) 2018/XX [the Eurodac Regulation]]

Article 55b
Amendments to Regulation (EU) 2018/XX [the SIS Regulation in the field of law enforcement]

Regulation (EU) 2018/XX is amended as follows:

1. In Article 3(1), the following points are added:

“(ep) ‘ESP’ means the European search portal **established by** ~~as defined in~~ [Article 6(1) of Regulation 2018/XX on interoperability].

(fq) ‘shared BMS’ means the shared biometric matching service **established by** ~~as defined in~~ [Article 12(1) of Regulation 2018/XX on interoperability].

(sr) ‘CIR’ means the common identity repository ~~as referred to in~~ **established by** [Article 17(1) of Regulation 2018/XX on interoperability];

(ts) ‘MID’ means the multiple-identity detector **established by** ~~as defined in~~ [Article 25(1) of Regulation 2018/XX on interoperability].”.

2. Article 4 is amended as follows:

(a) in paragraph 1, the following point ~~(d)~~ is added:

"(d) a secure communication infrastructure between CS-SIS and the central infrastructures of the ~~European Search Portal (ESP)~~ established in accordance with [Article 6 of Regulation 2018/XX on interoperability], the shared ~~biometric matching service (BMS)~~ established in accordance with [Article 12 of Regulation 2018/XX on interoperability] and the ~~multiple identity detector (MID)~~ established in accordance with [Article 25 of Regulation 2018/XX on interoperability]".

¹ General scrutiny reservation: **DE, SE**. Parliamentary reservation: **FR**.

(b) the following paragraphs ~~6 and 7~~ are added:

~~56.~~ Without prejudice to paragraphs (1) to ~~(45)~~ of ~~this Article~~, SIS data on persons and identity documents may also be searched via the ESP.”

~~67.~~ Without prejudice to paragraphs (1) to ~~(45)~~ of ~~this Article~~, SIS data on persons and identity documents may also be transmitted via the secure communication infrastructure referred to in **point (d) of paragraph (1) point d) of this Article**. These transmissions shall be limited to the extent that the data are required for the functionalities referred to by [Regulation 2018/XX on interoperability].”.

3. In Article 7 the following paragraph ~~2a~~ is **inserted added**:

“2a. The SIRENE Bureaux shall also ensure the verification of different identities in accordance with [Article 29 Regulation 2018/XX on interoperability]. To the extent necessary to carry out this task, the SIRENE Bureaux shall have access to consulting the data stored in the CIR **and the MID** for the purposes laid down in [Articles 21 and 26 of Regulation 2018/XX on interoperability].”

~~4. In Article 8, paragraph 4 is deleted.~~

~~45.~~ In Article 12, the following paragraph ~~1a~~ is **inserted added**:

“1a. Member States shall ensure that every access to personal data via the ESP are also logged for the purposes of checking whether or not the search is lawful, monitoring the lawfulness of data processing, self-monitoring, data integrity and security.”

~~56.~~ In Article 43(1), the following point ~~(g)~~ is added:

“(eg) verifying different identities and combating identity fraud in accordance with [Chapter V of Regulation 2018/XX on interoperability].”

67. In Article 71, paragraph 6, is replaced by the following:

"6. For the purpose of paragraphs 3, 4 and 5 ~~of this Article~~ and of Article 15(5), the Agency shall store data referred to in paragraph 3 ~~of this Article~~ and in Article 15(5) which shall not allow for the identification of individuals in the central repository for reporting and statistics referred to in [Article 39 of the Regulation 2018/XX on interoperability].

The Agency shall allow the Commission and the ~~agencies~~ **bodies** referred to in paragraph 5 to obtain bespoke reports and statistics. Upon request, the Agency shall give access to Member States, the Commission, Europol, and the European Border and Coast Guard Agency to the central repository in accordance with [Article 39 of the Regulation 2018/XX on interoperability]."

Article 55c

Amendments to Regulation (EU) 2018/XX [the ECRIS-TCN Regulation]²

Regulation (EU) 2018/XX [the ECRIS-TCN Regulation] is amended as follows:

1. In Article 1, the following point is added:

“(c) the conditions under which the ECRIS-TCN system contributes to facilitating and assisting in the correct identification of persons registered in the ECRIS-TCN system under the conditions and for the ultimate objectives referred to in [Article 20 of Regulation 2018/XX on interoperability], by storing identity, travel document and biometric data in the common identity repository (CIR) established by [Article 17(1) of Regulation 2018/XX on interoperability].”

² Following the explanations provided by the Commission at the JHA Counsellors meeting on 9 July, the Presidency believes that it would be preferable to use the wording 'identity, travel document and biometric data' even if these terms are not (yet) used in the ECRIS-TCN Draft Regulation (still under discussion with the EP) as using terms like 'identity information' would allow the user to identify that these data come from ECRIS-TCN.

2. Article 2 is replaced by the following:

"Article 2

Scope

This Regulation applies to the processing of identity information of third country nationals who have been subject to convictions in the Member States for the purpose of identifying the Member States where such convictions were handed down, as well as for contributing to facilitating and assisting in the correct identification of persons **in accordance with this Regulation and with Regulation 2018/XX on interoperability.**"

3. Article 3 is amended as follows:

4. (a) ~~The following points are added to Article 3:~~

"(q) 'CIR' means the common identity repository **established by** ~~as defined in~~ [Article 17(1) 4(35) of Regulation 2018/XX on interoperability];

(r) 'ECRIS-TCN data' means all data stored in the ECRIS-TCN Central System and in the CIR in accordance with Article 5."

(b) in point (n), the words 'Central System' are replaced by the words 'the ECRIS-TCN Central System and the CIR'.

~~45.~~ Article 4(1) is amended as follows:

(a) point (a) is replaced by the following:

"(a) ~~the common identity repository (CIR) as referred to in~~ **established by** [Article 17(1)(2)(a) of Regulation 2018/XX on interoperability];"

(b) the following point ~~(ab)~~ is inserted:

(ab) a Central System (ECRIS-TCN Central System);"

(c) the following point (e) is added:

"(e) a secure communication infrastructure between the ECRIS-TCN Central System and the central infrastructures of the European search portal established by [Article 6(1) of Regulation 2018/XX on interoperability], ~~the shared biometric matching service established by [Article 12 of Regulation 2018/XX on interoperability]~~, **and** the CIR established by [Article 17(1) of Regulation 2018/XX on interoperability] ~~and the multiple identity detector established by [Article 25 of Regulation 2018/XX on interoperability]~~."

~~56.~~ In Article 5, the following paragraph ~~4a~~ is inserted:

"1a. The CIR shall contain the data referred to in **point (b) of** Article 5(1)~~(b)~~ and **Article 5(2)** and the following data of **point (a) of** Article 5(1)~~(a)~~: surname (family name); first name(s) (given name(s)); date of birth; place of birth (town and country); nationality or nationalities; gender; ~~the type and number of the person's travel document(s), as well as the name of the issuing authority thereof;~~ and where applicable previous names, pseudonyms(s) and/or alias name(s), **as well as the type and number of the person's travel document(s) and the name of the issuing authority thereof.** The remaining ECRIS-TCN data shall be stored in the ECRIS-TCN Central System."

~~67.~~ In Article 8, paragraph 2 is replaced by the following:

"2. Upon expiry of the retention period referred to in paragraph 1, the central authority of the convicting Member State shall erase the data record, including any fingerprints and facial images, without undue delay from the ECRIS-TCN Central System and the CIR. **This shall be done automatically, where possible, and in any event no later than one month after the expiry of the retention period.**"

6a. In Article 8, a new paragraph is added:

"3. Where a red link is stored in the multiple identity detector (MID) established by [Article 25 of Regulation 2018/XX on interoperability] in accordance with [Article 32 of Regulation 2018/XX on interoperability], the linked ECRIS-TCN data referred to in point (r) of Article 3 shall be stored in the CIR in accordance with [Article 23(3) of Regulation 2018/XX on interoperability]."

~~78.~~ In Article 9, in paragraphs ~~1, 2, 3 and 4~~, the words ‘~~ECRIS-TCN Central~~ System’ are replaced by the words ‘the ECRIS-TCN Central System and the CIR’.

7a. In Article 9, in paragraphs 2, 3 and 4, the words ‘Central System’ are replaced by the words ‘the ECRIS-TCN Central System and the CIR’.

~~89.~~ In Article 12(2), the words ‘Central System’ are replaced by the words ‘the ECRIS-TCN Central System and the CIR’.

~~910.~~ In Article 13, in paragraphs ~~2 and 3~~, the words ‘Central System’ are replaced by the words ‘the ECRIS-TCN Central System and the CIR’.

~~1011.~~ In Article 21(2), the words ‘Central System’ are replaced by the words ‘the ECRIS-TCN Central System and the CIR’.

~~1112.~~ Article 22 is amended as follows:

(a) ~~P~~paragraph 1 is replaced by the following:

“1. The data included in the **ECRIS-TCN Central System** and the CIR shall only be processed for the purposes of the identification of the Member State(s) holding the criminal records information of third country nationals, as well as for facilitating and assisting in the correct identification of persons registered in the ECRIS-TCN **in accordance with this Regulation and with Regulation 2018/XX on interoperability.**”

(b) the following paragraph ~~3~~ is added:

“3. Access to consulting the ECRIS-TCN data stored in the CIR shall be reserved exclusively for the duly authorised staff of the national authorities of each Member State and for the duly authorised staff of the Union bodies that are competent for the purposes laid down in [Article 20 and Article 21 of Regulation 2018/XX on interoperability]. That access shall be limited to the extent necessary for the performance of the tasks of those national authorities and Union bodies in accordance with those purposes and shall be proportionate to the objectives pursued.”

~~1213.~~ Article 30 is amended as follows:

(a) ~~P~~paragraph 2 is replaced by the following:

"2. For the purpose of paragraph 1 of this Article, eu-LISA shall store the data referred to in paragraph 1 in the central repository for reporting and statistics referred to in [Article 39 of the Regulation 2018/XX on interoperability].";

(b) ~~P~~paragraph 3 is deleted.

~~1314.~~ In Article 31(1) the words 'Central System' are replaced by the words 'the ECRIS-TCN Central System ~~and the CIR~~'.

~~1415.~~ In Article 38(2) the words 'Central System' are replaced by the words 'the ECRIS-TCN Central System and the CIR'.

Article 55d
Amendments to Regulation (EU) 2018/XX [Regulation on eu-LISA]

Regulation (EU) 2018/XX (eu-LISA) is amended as follows:

1. Article 8 is replaced by the following:

" Article 8
Data quality

1. **Without prejudice to Member States' responsibilities with regard to the data entered into the systems under eu-LISA's operational responsibility, eu-LISA, closely involving its Advisory Groups,** shall establish for all systems under the Agency's operational responsibility automated data quality control mechanisms and procedures and common data quality indicators and the minimum quality standards to store data, in accordance with the relevant provisions of the systems' instruments and of [Article 37 of Regulation 2018/XX on interoperability].
2. eu-LISA shall establish a central repository for reporting and statistics in accordance with [Article 39 of Regulation 2018/XX on interoperability]."

2. Article 9 is replaced by the following:

" Article 9
Interoperability

Where the interoperability of large-scale IT systems has been stipulated in a relevant legislative instrument the Agency shall develop the necessary actions conferred on it by those legislative instruments to enable that interoperability."

3. Article 15(1) is amended as follows:

~~(a) in paragraph 1 is amended as follows:~~

(ai) the following point ~~(eea)~~ is inserted:

"~~(eea) Adopt the reports on the state of play of the development of the interoperability components pursuant to [Article 68(2) of Regulation 2018/XX on interoperability]."~~

(bii) point (ff) is replaced by the following:

"(ff) adopt the reports on the technical functioning of SIS II pursuant to Article 50(4) of Regulation (EC) No 1987/2006 and Article 66(4) of Decision 2007/533/JHA respectively [or Article 54(7) of Regulation 2018/XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1987/2006 and Article 71(7) of Regulation 2018/XX of the European Parliament and of the Council on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters, amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU], of VIS pursuant to Article 50(3) of Regulation (EC) No 767/2008 and Article 17(3) of Decision 2008/633/JHA, of EES pursuant to Article 72(4) of Regulation (EU) 2017/2226, of ETIAS pursuant to Article ~~84~~**92**(4) of Regulation (EU) 2018/XX on the ECRIS-TCN system and the ECRIS reference implementation pursuant to Article 34(4) of Regulation (EU) 2018/XX] and of the interoperability components pursuant to [Article 68(4) of Regulation 2018/XX on interoperability];"

(ciii) point (hh) is replaced by the following:

"(hh) adopt formal comments on the European Data Protection Supervisor's reports on the audits pursuant to Article 45(2) of Regulation (EC) No 1987/2006, Article 42(2) of Regulation (EC) No 767/2008 and Article 31(2) of Regulation (EU) No 603/2013, Article 56(2) of Regulation (EU) 2017/2226, and [Article ~~57~~ **67** of Regulation (EU) 2018/XX (establishing the ETIAS)] and to [Article 27(2) of Regulation (EU) 2018/XX (establishing the ECRIS-TCN system)] and to [Article 50 of Regulation 2018/XX on interoperability] and ensure appropriate follow-up of those audits;"

4. In Article 19, paragraph 4 is replaced by the following:

"4. Europol and Eurojust may attend the meetings of the Management Board as observers when a question concerning SIS II, in relation to the application of Decision 2007/533/JHA, is on the agenda. [The European Border and Coast Guard Agency may attend the meetings of the Management Board as observers when a question concerning SIS in relation to the application of Regulation (EU) 2016/1624 is on the agenda]. Europol may also attend the meetings of the Management Board as observer when a question concerning VIS, in relation to the application of Decision 2008/633/JHA, or a question concerning Eurodac, in relation to the application of Regulation (EU) No 603/2013, is on the agenda. Europol may also attend the meetings of the Management Board as an observer when a question concerning EES in relation to the application of Regulation (EU) 2017/2226 is on the agenda or when a question concerning ETIAS in relation to Regulation 2018/XX (establishing ETIAS) is on the agenda. [The European Border and Coast Guard Agency may also attend the meetings of the Management Board as observer when a question concerning ETIAS in relation with the application of Regulation 2018/XX (establishing ETIAS) is on the agenda.] [EASO may also attend the meetings of the Management Board as an observer when a question concerning the automated system for registration, monitoring and the allocation mechanism for applications for international protection referred to in Article 44 of Regulation (EU) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast) COM(2016) 270 final-2016/0133(COD), is on the agenda.] [Eurojust, Europol [the European Public Prosecutor's Office] may also attend the meetings of the Management Board as observers when a question concerning Regulation 2018/XX (establishing a centralised system for the identification of Member States holding conviction information on third-country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS), and amending Regulation (EU) No 1077/2011 (ECRIS-TCN system) is on the agenda.] Europol, Eurojust and the European Border and Coast Guard Agency may also attend the meetings of the Management Board as observers when a question concerning [Regulation 2018/XX on interoperability] is on the agenda. The Management Board may invite any other person whose opinion may be of interest, to attend its meetings as an observer."

5. In Article 21(3) point (o) is replaced by the following:

"(o) without prejudice to Article 17 of the Staff Regulations, establishing confidentiality requirements in order to comply with Article 17 of Regulation (EC) No 1987/2006, Article 17 of Decision 2007/533/JHA, Article 26(9) of Regulation (EC) No 767/2008 Article 4(4) of Regulation (EU) No 603/2013; Article 37(4) of Regulation 2017/2226, [Article ~~64~~ 74(2) of Regulation 2018/XX (establishing the ETIAS)], [Article 11(16) of Regulation 2018/XX (establishing the ECRIS-TCN system)] and [Article 53(2) of Regulation 2018/XX on interoperability];"

6. Article 23 is amended as follows:

(a) ~~In~~ paragraph 1 the following point ~~(ea)~~ is inserted:

"(ea) Interoperability Advisory Group;"

(b) paragraph 3 is replaced by the following:

"3. Europol and Eurojust and the European Border and Coast Guard Agency may each appoint a representative to the SIS II Advisory Group. Europol may also appoint a representative to the VIS and Eurodac and EES[-ETIAS] Advisory Groups. The European Border and Coast Guard Agency may also appoint a representative to the EES[-ETIAS] Advisory Group.] [Eurojust, Europol, and the European Public Prosecutors Office] may also appoint a representative to the ECRIS-TCN system Advisory Group.] Europol, Eurojust and the European Border and Coast Guard Agency may each appoint a representative to the Interoperability Advisory Group."