NOTE

From: Presidency
To: Permanent Representatives Committee/Mixed Committee

Delegations will find in the annex to this note a draft Regulation amending Regulation (EU) 2016/794, to be adopted together with the above-mentioned proposal on ETIAS.

New changes are highlighted in **bold underline** and **double strikethrough** in relation to ST 9349/17 ADD 1.
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 PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty of the Functioning of the European Union, and in particular, Article
88(2)(a) thereof;

Acting in accordance with the ordinary legislative procedure,

Whereas:

(1) The ETIAS Regulation allocates new tasks to Europol as regards the processing of queries by
the ETIAS Central System, such as making it necessary for Europol to adapt its information
system 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.

(2) In order to be able to carry out its new tasks, Europol should receive appropriate funding if
necessary for the purpose of implementing this Regulation. The resources required by
Europol for the purpose of implementing its tasks as set out in this Regulation should
be taken into account, in line with the existing applicable procedures.

HAVE ADOPTED THIS REGULATION:
Article 1
Amendments to Regulation (EU) 2016/794

Regulation (EU) 2016/794 is amended as follows:

1. In Article 4 paragraph 1, the following points (n), (o) and (p) are added:

   "(n) develop and host the ETIAS watchlist referred to in Article 29 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)] in accordance with 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;

   (o) provide information to the ETIAS watchlist related to terrorist offences or other serious criminal offences obtained by Europol through international cooperation, without prejudice to the conditions regulating Europol's international cooperation;

   (p) provide an opinion following a consultation request referred to in Article 25 of [Regulation establishing a European Travel Information and Authorisation System (ETIAS)]."

2. Article 21 is amended as follows:

   (a) the title is replaced by the following:

   "Article 21

Access by Eurojust, OLAF and, only for purposes of ETIAS, by the European Border and Coast Guard Agency to information stored by Europol"
(b) the following paragraph 1a is inserted:

"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).

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 Agency tasks related to ETIAS.

Paragraphs 2 to 7 of this Article shall apply accordingly".

Article 2

Entry into force and applicability

This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President