Regulation (EU) 2018/1241 of the European Parliament and of the Council of 12 September 2018 amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS)

REGULATION (EU) 2018/1241 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 12 September 2018

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 point (a) of Article 88(2) thereof,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) Regulation (EU) 2018/1240 of the European Parliament and of the Council[(2)] allocates new tasks to the European Union Agency for Law Enforcement Cooperation (Europol) such as the management of the ETIAS watchlist, the entry of data related to terrorist offences or other serious criminal offences into that watchlist and the provision of opinions following consultation requests by the ETIAS National Units. To implement those tasks, it is therefore necessary to amend Regulation (EU) 2016/794 of the European Parliament and of the Council[(3)] accordingly.

(2) In accordance with Articles 1 and 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 (TEU) and to the Treaty on the Functioning of the European Union (TFEU), 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.

(3) In accordance with Articles 1 and 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 TEU and to the TFEU, 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.

(4) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application,

HAVE ADOPTED THIS REGULATION:

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2018/1241 of the European Parliament and of the Council. (See end of Document for details)*

Article 1

Amendments to Regulation (EU) 2016/794

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

(1) Article 4(1) is amended as follows:

(a) the following points are added:

(n) manage the ETIAS watchlist in accordance with Articles 34 and 35 of Regulation (EU) 2018/1240 of the European Parliament and of the Council[(4)];

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

(p) provide an opinion following a consultation request referred to in Article 29 of Regulation (EU) 2018/1240.;

(b) the following subparagraph is added:

For the purpose of carrying out the task referred to in point (n) of the first subparagraph of this paragraph, Europol's Management Board shall, after consulting the EDPS, adopt the procedures referred to in Article 35 of Regulation (EU) 2018/1240.

(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 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 (EU) 2018/1240, to have indirect access on the basis of a hit/no hit system to data provided for the purposes of point (j) of Article 20(2) of that Regulation, 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) of this Regulation.

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..