



# Legal Base EES / ETIAS

Round Industry Table

*11 October 2022*

# Which are the new Systems to be applied?

## Entry / Exit System (EES):

As of May 2023, EES will record and store electronically, the date, time and place of entry and exit of travelers, crossing the borders of the Member States applying EES. It will also calculate the duration of their authorized stay and will generate alerts, when the authorized stay has expired.

Regulation (EU) 2017/2226 of the European Parliament and of the Council of 30 November 2017 establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes, and amending the Convention implementing the Schengen Agreement and Regulations (EC) No 767/2008 and (EU) No 1077/2011, hereinafter referred as Regulation (EU) 2017/2226.

# Which are the new Systems to be applied?

## European Travel Information and Authorization System (ETIAS):

As of November 2023, travelers from visa exempt countries will be required to have a travel authorization to enter Member States applying ETIAS, for a short stay.

Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226, hereinafter referred as Regulation (EU) 2018/1240.

# EES / ETIAS scope

## What / Who?

Both visa-exempt and visa-required TCN are concerned by the EES (should be registered in EES when entering/leaving the Schengen Area for a short stay).

Only visa-exempt TCN are concerned by ETIAS (should apply for an ETIAS when travelling into the MS/TC which require ETIAS)

# Carrier Interface: Who / how?

## Who?

Air and sea carriers, as well as international carriers transporting groups overland by coach.

## How?

Prior to boarding, carriers have the obligation to verify whether travelers holding a short-stay visa, issued for one or two entries, have already used the number of entries authorized by their visa.

When ETIAS enters into operation the carriers shall also have the obligation to verify that travelers, subject to the travel authorization requirement, are in possession of a valid travel authorization. Carriers shall submit the query, both for EES and ETIAS, through the carrier interface.

# Which travellers are concerned?

## EES:

Travelers who require a single or double entry visa for entering the Schengen area.

## ETIAS:

Travelers who are exempt from a visa requirement for intended stays in the territory of the Member States of a duration of no more than 90 days in any 180-day period.

## Detailed information about in and out of scope travellers

EES: Art. 2 of Regulation (EU) 2017/2226.

ETIAS: Art. 2 of Regulation (EU) 2018/1240.

# Secondary Legal Base

EES – Article 13 called for the adoption of

Commission Implementing Regulation (EU) 2021/1224 of 27 July 2021 concerning the detailed rules on the conditions for the operation of the web service and data protection and security rules applicable to the web service as well as measures for the development and technical implementation of the web service provided for by Regulation (EU) 2017/2226 of the European Parliament and of the Council and repealing Commission Implementing Decision C(2019)1230, hereinafter referred as Commission Implementing Regulation (EU) 2017/1224.

# Secondary Legal Base

ETIAS – Articles 45/46 called for the adoption of

Commission Implementing Regulation (EU) 2021/1217 of 26 July 2021 laying down the rules and conditions for verification queries by carriers, provisions for data protection and security for the carriers' authentication scheme as well as fall-back procedures in case of technical impossibility, hereinafter referred as Commission Implementing Regulation (EU) 2021/1217.



# What is being done now and how will it look like in the future for carriers?

## Currently

Companies check the passports of these travellers to verify whether their single or double entry visas have been used. If they have not been used, these passengers can board.

## In the future

Carriers, at the earliest 48 hours prior to the scheduled time of departure, are obliged to send verification queries, in order to check if a traveler is “OK” or “NOT OK” to travel to Member States applying EES and/or ETIAS, in terms of single and double entry visas or ETIAS obligations. Carriers will receive an answer, depending on the traveler's status regarding single, double entry visa or ETIAS.

# How will the verification be done?

- A Carrier Interface will give the possibility to carriers to send verification queries in order to check if a traveller is “OK” or “Not OK” in terms of single and double entry visa obligations to enter the Schengen Area.
- Connection to the carrier interface shall be done either through a dedicated connection network or an Internet connection.
- Carriers should ensure that only duly authorised staff will have access to it and that a verification query shall be introduced at the earliest 48 hours prior to the scheduled time of departure.

# How will carriers be able to use the carrier interface?

- Carriers have to register with eu-LISA in order to have access to the carrier Interface.
- Carriers can access that interface through:
  1. a system-to-system interface;
  2. a web interface (available to carriers on a public website);
  3. or through an application for mobile devices.

# Why register?

- Carriers will have to register in order to query eu-LISA's IT Systems for receiving information on the status of travellers regarding EES and ETIAS.
- After EES enters into operation, registered carriers will be assisted by ETIAS Central Unit and eu-LISA, regarding operational and technical issues.

# When and how to register into the carrier interface?

Registration for carriers has already started by eu-LISA, since September 2021. For more information on registration please follow the web link:

<https://www.eulisa.europa.eu/Newsroom/News/Pages/eu-LISA-is-Starting-Carrier-Registration-for-EES-and-ETIAS.aspx>

# If different carriers are involved, who should perform the verification?

The status of the travellers should be checked by the first carrier, transporting the traveller into a European country applying EES/ETIAS.

# What happens if a traveller is refused entry at the borders?

## Carrier held responsible

If a carrier boards a traveller without querying the Carrier Interface, then if this traveller is refused entry at the borders, the same carrier shall be obliged to assume responsibility and transfer the traveller back. Penalties may be applicable for the carrier in this case.

## Carrier exempt from responsibility

If a carrier, after querying the Carrier Interface, transports a traveller to the external borders of Member States applying EES and/or ETIAS, who were “OK” to travel but during the border check this traveller was refused entry due to unforeseen (for the carrier) reasons, then the same carrier will not be subject to a penalty but will need to assume responsibility and transfer the traveller back.

# Legal base applicable

The Convention Implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders.

Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code), hereinafter referred as Schengen Border Code.

Council Directive [2001/51/EC](#) of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.7.2001, pp. 45-46)



Carriers who transport only EU citizens from outside the Schengen area into its territory will be obliged to query for them?

No. EU citizens are exempt from EES and ETIAS Regulations.

Carriers who transport travellers within the territory of the Schengen area will be obliged to query for them?

No. Checks on passengers' status shall be performed only when crossing the external borders of Member States applying EES and/or ETIAS.

## Timeline for EES/ETIAS EIO

- EU regulations: 2017/2226 (the “EES Regulation”) and 2018/1240 (the “ETIAS Regulation”) set out the necessity to query EES and ETIAS in order to receive details regarding the status of travellers arriving to the Schengen Area
  - The Entry/Exit System (EES) will replace the manual stamping of passports with an electronic record of entries and exits. **As of May 2023**, carriers will need to verify whether third-country nationals travelling to the EU on a short-stay, be it a single or double entry visa, have already used the number of entries authorised by their visa.
  - **From November 2023 onwards**, the European Travel Information and Authorisation System (ETIAS) will require carriers to verify, prior to boarding, that their visa-exempt passengers have a valid travel authorisation to enter the Schengen Area.

# Thank you



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