

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

CHAPTER III

**CREATION OF THE APPLICATION FILE AND EXAMINATION  
OF THE APPLICATION BY THE ETIAS CENTRAL SYSTEM**

*Article 24*

**Specific rules for family members of Union citizens or of other third-  
country nationals enjoying the right of free movement under Union law**

1 For third-country nationals referred to in point (c) of Article 2(1), the travel authorisation as defined in point 5 of Article 3(1) shall be understood as a decision issued in accordance with this Regulation indicating that there are no factual indications or reasonable grounds based on factual indications to conclude that the presence of the person on the territory of the Member States poses a security or high epidemic risk in accordance with Directive 2004/38/EC.

2 When a third-country national referred to in point (c) of Article 2(1) applies for a travel authorisation, the following specific rules shall apply:

- a the applicant shall not reply to the question referred to in point (c) of Article 17(4);
- b the fee referred to in Article 18 shall be waived.

3 When processing an application for a travel authorisation for a third-country national referred to in point (c) of Article 2(1), the ETIAS Central System shall not verify whether:

- a the applicant is currently reported as an overstayer or whether he or she has been reported as an overstayer in the past through consultation of the EES as referred to in point (g) of Article 20(2);
- b the applicant corresponds to a person whose data is recorded in Eurodac as referred to in point (k) of Article 20(2).

The specific risk indicators based on illegal immigration risks determined pursuant to Article 33 shall not apply.

4 An application for a travel authorisation shall not be refused on the ground of an illegal immigration risk as referred to in point (c) of Article 37(1).

5 Where automated processing under Article 20 has reported a hit corresponding to a refusal of entry and stay alert referred to in Article 24 of Regulation (EC) No 1987/2006 of the European Parliament and of the Council<sup>(1)</sup>, the ETIAS National Unit shall verify the basis for the decision following which this alert was entered in SIS. If this basis is related to an illegal immigration risk, the alert shall not be taken into consideration for the assessment of the application. The ETIAS National Unit shall proceed according to Article 25(2) of the Regulation (EC) No 1987/2006.

6 The following rules shall also apply:

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**Changes to legislation:** There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, Article 24. (See end of Document for details)

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- a in the notification laid down in Article 38(1) the applicant shall receive information regarding the fact that, when crossing the external border, he or she needs to be able to prove his or her status as family member referred to in point (c) of Article 2(1); such information shall also include a reminder that the family member of a citizen exercising the right of free movement who is in possession of a travel authorisation only has a right to enter if that family member is accompanied by or joining the Union citizen or other third-country national exercising his or her right of free movement;
- b an appeal as referred to in Article 37(3) shall be lodged in accordance with Directive 2004/38/EC;
- c the retention period of the application file referred to in Article 54(1) shall be:
  - (i) the period of validity of the travel authorisation;
  - (ii) five years from the last decision to refuse, annul or revoke the travel authorisation in accordance with Articles 37, 40 and 41. If the data present in a record, file or alert registered in one of the EU information systems, Europol data, the Interpol SLTD or TDAWN databases, the ETIAS watchlist, or the ETIAS screening rules giving rise to such a decision are deleted before the end of that five-year period, the application file shall be deleted within seven days from the date of the deletion of the data in that record, file or alert. For that purpose, the ETIAS Central System shall regularly and automatically verify whether the conditions for the retention of application files referred to in this point are still fulfilled. Where they are no longer fulfilled, it shall delete the application file in an automated manner.

For the purpose of facilitating a new application after the expiry of the validity period of an ETIAS travel authorisation, the application file may be stored in the ETIAS Central System for an additional period of no more than three years after the end of the validity period of the travel authorisation and only where, following a request for consent, the applicant freely and explicitly consents by means of an electronically signed declaration. Requests for consent shall be presented in a manner which is clearly distinguishable from other matters, in an intelligible and easily accessible form and using clear and plain language, in accordance with Article 7 of Regulation (EU) 2016/679.

Consent shall be requested following the provision of information under Article 15(2). The automatically provided information shall remind the applicant of the purpose of the data retention in line with the information referred to in point (o) of Article 71.

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- (1) Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ([OJ L 381, 28.12.2006, p. 4](#)).

**Changes to legislation:**

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