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 19

Admissibility and creation of the application file

1   The ETIAS Information System shall automatically verify whether, following submission of an application:
   a   all the fields of the application form are filled in and contain all the items referred to in Article 17(2) and (4);
   b   the travel authorisation fee has been collected.

2   If the conditions in points (a) and (b) of paragraph 1 are met, the application shall be deemed admissible. The ETIAS Central System shall then automatically create an application file without delay and assign it an application number.

3   Upon creation of the application file, the ETIAS Central System shall record and store the following data:
   a   the application number;
   b   status information, indicating that a travel authorisation has been requested;
   c   the personal data referred to in Article 17(2) and, where applicable, Article 17(4) and (6), including the three-letter code of the country issuing the travel document;
   d   the data referred to in Article 17(8);
   e   the date and the time the application form was submitted as well as a reference to the successful payment of the travel authorisation fee and the unique reference number of the payment.

4   Upon creation of the application file, the ETIAS Central System shall determine whether the applicant already has another application file in the ETIAS Central System by comparing the data referred to in **[**^{F1}points (a) and (aa) of Article 17(2)**]** with the personal data of the application files stored in the ETIAS Central System. In such a case, the ETIAS Central System shall link the new application file to any previous existing application file created for the same applicant.

5   Upon creation of the application file, the applicant shall immediately receive a notification via the email service explaining that, during the processing of the application, the applicant may be asked to provide additional information or documentation or, in exceptional circumstances, attend an interview. This notification shall include:
   a   status information, acknowledging the submission of an application for travel authorisation; and
   b   the application number.

The notification shall enable the applicant to make use of the verification tool provided for in point (h) of Article 6(2).

Textual Amendments

F1   Substituted by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA.

Article 20

Automated processing

1   The application files shall be automatically processed by the ETIAS Central System to identify hit(s). The ETIAS Central System shall examine each application file individually.

[**F1**2   The ETIAS Central System shall launch a query by using the ESP to compare the relevant data referred to in points (a), (aa), (b), (c), (d), (f), (g), (j), (k) and (m) of Article 17(2) and in Article 17(8) to the data present in a record, file or alert registered in an application file stored in the ETIAS Central System, SIS, the EES, VIS, Eurodac, Europol data and in the Interpol SLTD and TDAWN databases.]

In particular, the ETIAS Central System shall verify:
- a   whether the travel document used for the application corresponds to a travel document reported lost, stolen, misappropriated or invalidated in SIS;
- b   whether the travel document used for the application corresponds to a travel document reported lost, stolen or invalidated in the SLTD;
- c   whether the applicant is subject to a refusal of entry and stay alert entered in SIS;
- d   whether the applicant is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;
- e   whether the applicant and the travel document correspond to a refused, revoked or annulled travel authorisation in the ETIAS Central System;
- f   whether the data provided in the application concerning the travel document correspond to another application for travel authorisation associated with different identity data referred to in point (a) of Article 17(2) in the ETIAS Central System;
- g   whether the applicant is currently reported as an overstayer or whether he or she has been reported as an overstayer in the past in the EES;
- h   whether the applicant is recorded as having been refused entry in the EES;
- i   whether the applicant has been subject to a decision to refuse, annul or revoke a short stay visa recorded in VIS;
- j   whether the data provided in the application correspond to data recorded in Europol data;
- k   whether the applicant is registered in Eurodac;
- l   whether the travel document used for the application corresponds to a travel document recorded in a file in TDAWN;
- m   in cases where the applicant is a minor, whether the applicant's parental authority or legal guardian:

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     (i)   is subject to an alert in respect of persons wanted for arrest for surrender purposes on the basis of a European Arrest Warrant or wanted for arrest for extradition purposes in SIS;

     (ii)   is subject to a refusal of entry and stay alert entered in SIS.

3   The ETIAS Central System shall verify whether the applicant has replied affirmatively to any of the questions listed in Article 17(4) and whether the applicant has not provided a home address but only his city and country of residence, as referred to in point (f) of Article 17(2).

4   The ETIAS Central System shall compare the relevant data referred to in [**F1**points (a), (aa), (b), (c), (d), (f), (g), (j), (k) and (m) of Article 17(2)**]** and in Article 17(8) to the data present in the ETIAS watchlist referred to in Article 34.

5   The ETIAS Central System shall compare the relevant data referred to in [**F1**points (a), (aa), (c), (f), (h) and (i) of Article 17(2)**]** to the specific risk indicators referred to in Article 33.

6   The ETIAS Central System shall add a reference to any hit obtained pursuant to paragraphs 2 to 5 to the application file.

7   Where the data recorded in the application file correspond to the data triggering a hit pursuant to paragraphs 2 and 4, the ETIAS Central System shall identify, where relevant, the Member State(s) that entered or supplied the data having triggered the hit and shall record this in the application file.

8   Following any hit pursuant to paragraph 2(j) and paragraph 4 and where no Member State had supplied the data having triggered the hit, the ETIAS Central System shall identify whether Europol entered the data and shall record this in the application file.

Textual Amendments

  F1   Substituted by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA.

Article 21

Results of the automated processing

1   Where the automated processing laid down in Article 20(2) to (5) does not report any hit, the ETIAS Central System shall automatically issue a travel authorisation in accordance with Article 36 and shall notify the applicant in accordance with Article 38.

2   Where the automated processing laid down in Article 20(2) to (5) reports one or several hits, the application shall be processed in accordance with the procedure laid down in Article 22.

3   Where verification under Article 22 confirms that the data recorded in the application file correspond to the data triggering a hit during the automated processing pursuant to Article 20(2) to (5) or where doubts remain concerning the identity of the applicant following such verification, the application shall be processed in accordance with the procedure laid down in Article 26.

4   Where automated processing under Article 20(3) reports that the applicant has replied affirmatively to any of the questions listed in Article 17(4), and if there is no other hit, the application shall be sent to the ETIAS National Unit of the Member State responsible, for manual processing as set out in Article 26.

Article 22

Verification by the ETIAS Central Unit

1   Where the automated processing pursuant to Article 20(2) to (5) reports one or several hits the ETIAS Central System shall automatically consult the ETIAS Central Unit.

2   When consulted, the ETIAS Central Unit shall have access to the application file and any linked application files, as well as to all the hits triggered during automated processing pursuant to Article 20(2) to (5) and to the information identified by the ETIAS Central System under Article 20(7) and (8).

3   The ETIAS Central Unit shall verify whether the data recorded in the application file correspond to one or more of the following:
  a   the specific risk indicators referred to in Article 33;
  b   the data present in the ETIAS Central System, including the ETIAS watchlist referred to in Article 34;
  c   the data present in one of the EU information systems that are consulted;
  d   Europol data;
  e   the data present in the Interpol SLTD or TDAWN databases.

4   Where the data do not correspond, and no other hit has been reported during automated processing pursuant to Article 20(2) to (5), the ETIAS Central Unit shall delete the false hit from the application file and the ETIAS Central System shall automatically issue a travel authorisation in accordance with Article 36.

5   Where the data correspond to those of the applicant or where doubts remain concerning the identity of the applicant, the application shall be processed manually in accordance with the procedure laid down in Article 26.

6   The ETIAS Central Unit shall complete the manual processing within a maximum of 12 hours from receipt of the application file.

Article 23

Support of the objectives of SIS

[^{F1}1   The ETIAS Central System shall launch a query by using the ESP to compare the relevant data referred to in points (a), (aa), (b) and (d) of Article 17(2) to the data present in SIS in order to determine whether the applicant is the subject of one of the following alerts:
  a   an alert on missing persons;
  b   an alert on persons sought to assist with a judicial procedure;
  c   an alert on persons for discreet checks or specific checks.]

2   Where the comparison referred to in paragraph 1 reports one or several hits, the ETIAS Central System shall send an automated notification to the ETIAS Central Unit. The ETIAS Central Unit shall verify whether the applicant's personal data correspond to the personal data

contained in the alert having triggered that hit and if a correspondence is confirmed, the ETIAS Central System shall send an automated notification to the SIRENE Bureau of the Member State that entered the alert. The SIRENE Bureau concerned shall further verify whether the applicant's personal data correspond to the personal data contained in the alert having triggered the hit and take any appropriate follow-up action.

The ETIAS Central System shall also send an automated notification to the SIRENE Bureau of the Member State that entered the alert having triggered a hit against SIS during the automated processing referred to in Article 20 where, following verification by the ETIAS Central Unit as referred to in Article 22, that alert has led to manual processing of the application in accordance with Article 26.

3   The notification provided to the SIRENE Bureau of the Member State that entered the alert shall contain the following data:

 a   surname(s), first name(s) and, if any, alias(es);
 b   place and date of birth;
 c   sex;
 d   nationality and, if any, other nationalities;
 e   Member State of first intended stay, and if available, the address of first intended stay;
 f   the applicant's home address or, if not available, his or her city and country of residence;
 g   travel authorisation status information, indicating whether a travel authorisation has been issued, refused or whether the application is subject to manual processing pursuant to Article 26;
 h   a reference to any hits obtained in accordance with paragraphs 1 and 2, including the date and time of the hit.

4   The ETIAS Central System shall add a reference to any hit obtained pursuant to paragraph 1 to the application file.

Textual Amendments

F1   Substituted by Regulation (EU) 2019/817 of the European Parliament and of the Council of 20 May 2019 on establishing a framework for interoperability between EU information systems in the field of borders and visa and amending Regulations (EC) No 767/2008, (EU) 2016/399, (EU) 2017/2226, (EU) 2018/1240, (EU) 2018/1726 and (EU) 2018/1861 of the European Parliament and of the Council and Council Decisions 2004/512/EC and 2008/633/JHA.

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[1], 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:

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

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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.

(**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:
There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER III.

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There are currently no known outstanding effects for the Regulation (EU) 2018/1240 of the European Parliament and of the Council, CHAPTER III.