



EDPS Formal comments on the draft Commission Implementing Decision on the keeping and accessing of the logs in the European Travel Information and Authorisation System (ETIAS) pursuant to point (b) of the third subparagraph of Article 73(3) of Regulation (EU) 2018/1240 of the European Parliament and the Council

1. Introduction and background

The European Travel Information and Authorisation System (ETIAS) has been established by Regulation (EU) 2018/1240¹ and requires all visa-exempt third country nationals to apply online for travel authorisation prior to the date of their departure to the Schengen area. Applicants undergo a risk assessment with respect to security, irregular migration and public health risks prior to their arrival at the Schengen borders. This assessment takes place, as a first step, in an automated manner by means of cross-checking the applicant's data submitted through the ETIAS Information System against other EU information systems, Interpol databases, a dedicated ETIAS watchlist and screening rules. If no hit is reported, the system will automatically issue a travel authorisation. If there is one or several hits, the application is manually processed by the ETIAS National Unit of the Member State of the traveller's intended first entry as declared in the application form. The task of the responsible ETIAS National Unit would be to assess the irregular migration, security or public health risk and decide whether to issue or refuse a travel authorisation.

According to Article 69 of Regulation (EU) 2018/1240, the European Union Agency for the Operational Management of Large-Scale IT systems in the Area of Freedom, Security and Justice ("eu-LISA") shall keep logs of all data processing operations carried out within the ETIAS Information System. This includes data processing operations carried out within the carrier gateway by carriers as specified in Article 45(7). Article 70 further specifies that eu-LISA shall keep logs of all data processing operations within the ETIAS Central System concerning requests for data consultation by the central access points to prevent, detect and investigate terrorist offences or of other serious criminal offences falling under their competence.

Regulation (EU) 2018/1240 requires the Commission to adopt measures necessary for the development and technical implementation of the ETIAS information system. In this regard point (b) (iii) of the third subparagraph of Article 73(3) of Regulation (EU) 2018/1240 specifically refers to the adoption of measures for keeping and accessing the logs in accordance with Article 45 and Article 69 of the said Regulation.

The present formal comments are issued in response to the legislative consultation submitted by the European Commission on 14 July 2020 pursuant to Article 42(1) of Regulation (EU) 2018/1725.² In this regard, the EDPS welcomes the reference to this consultation in Recital 11 of the draft Implementing Decision.

¹ 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, OJ L 236, 19.9.2018, p. 1–71.

² Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and

2. Comments

The draft Implementing Decision on the keeping and accessing of the logs in the European Travel Information and Authorisation System (ETIAS), does not contain provisions which would raise concerns with regard to the right to the protection of personal data.

In particular, the EDPS welcomes the fact that the roles of the authorised persons to access such logs are clearly defined in Article 2 of the draft Implementing Decision.

From the point of view of legislative technique, the EDPS considers that it would be more appropriate to refer to point (b) (iii) of the third subparagraph of Article 73(3) of Regulation (EU) No 2018/1240 instead of point (b) only.

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[e-signed]
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