

GMS Flash Alert

Immigration Edition

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European Union - Delays for Automation of European Digitised Border-Crossing Systems

The European Union (EU) announced implementation of digital border checks at the EU's external borders (known as "EES") and a system for pre-approval of passengers to the EU during 2022 (known as "ETIAS"), but both systems have been subject to delays.¹ Most recent information reveals that both systems are set to be implemented later in 2023.

According to the current plan, starting in November 2023, travellers who do not need a visa to visit EU member countries will require an approval in ETIAS prior to their travel.

WHY THIS MATTERS

The automated border checks for Entry/Exit System ("EES") of third-country nationals will allow authorities to identify immediately individuals who stay longer in the EU than what they are legally allowed. Furthermore, the automated border checks will provide information that can be potentially used for the determination of tax liability for the individual and the company as well as other liabilities, such as social security contributions.

Third-country nationals travelling to the EU and exempt from a visa will not be able board a plane, train, or vessel without an approval in ETIAS prior to their travel.

Context and State of Play

ETIAS² is a system that will require third-country nationals who are exempt from a visa to obtain a travel authorisation before they travel to the EU. ETIAS will be an online system and an application will be charged at EUR 7.

This project is set to be implemented in November 2023 and there are currently no indications that it will be delayed further. (However, this is the third time the launch of ETIAS has experienced a delay.)

EES³ is a system that will introduce e-gates. EES applies to individuals who are non-EU nationals travelling for a short stay to a European country⁴ and they possess a short-stay visa or do not need a visa to stay for a maximum of 90 days in any 180-day period. Passengers entering/exiting the EU will have to scan their passports, which will allow immigration authorities to identify individuals in breach of their (exemption from) visa conditions immediately. This project is delayed and expected to be implemented by the end of 2023, and not in May of 2023 as was initially expected.

MEIJBURG & CO. INSIGHTS

Violation of visa conditions or conditions for an exemption from the visa to the EU is a serious offence that can impact possibilities for future travels to the EU.

Furthermore, the fact that the authorities in the EU will have accurate information about an individual's travel could have implications for other aspects of an individual's travel and cross-border movements, i.e., tax liability, social security liability, permanent establishment issues, etc.

Although ETIAS and EES are delayed, these systems will be implemented. Companies should review their systems for tracking of employees' whereabouts, inform their organisation and employees about the digitisation of EU border checks, and assess the impact of these changes on their processes.

FOOTNOTES:

1 For more on ETIAS and EES, see the following issues of *GMS Flash Alert*: [2021-319](#) (23 December 2021), [2021-150](#) (26 May 2021), [2018-146](#) (8 November 2018).

2 For more information on ETIAS, see the European Commission's webpage "European Travel Information and Authorisation System (ETIAS)" at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/smart-borders/european-travel-information-authorisation-system_en. This webpage includes a .pdf format memo on additional questions and answers. One question addressed in the memo has to do with ETIAS becoming operational; the answer provided: "ETIAS is expected to be operational by November 2023."

3 For more on the EES, see the European Commission webpage "Entry/Exit System (EES)" at: https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/smart-borders/entry-exit-system_en. For information on the delay, see A. Symons, "New EU border checks delayed until the end of 2023. Why are airlines supportive?" in *EuroNews* (online) (23 January 2023) at: <https://www.euronews.com/travel/2023/01/18/new-eu-border-controls-delayed-until-end-of-2023-how-will-the-ees-affect-travellers>. *Please note that by clicking on this link, you are leaving the KPMG website for an external site (non-KPMG, non-governmental) that KPMG is not affiliated with nor does KPMG endorse its content. The use of the external site and its content may be subject to the terms of use and/or privacy policies of its owner or operator.*

4 EES will apply when entering EU member states, except Cyprus and Ireland; moreover, there are four non-EU countries in the Schengen Area to which it will apply: Iceland, Lichtenstein, Norway, and Switzerland.

Contact us

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