Conclusions

3rd meeting of the informal ad hoc Working Group for Carriers

On 19 December 2019, the European Commission, together with the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), hosted the third informal *ad hoc* meeting of the Working Group for Carriers. Thirty five (35) participants attended the meeting, representing air, sea and land passenger transport industries and service providers (*see* the Annex). Further to carrier associations, representatives from two (2) Member States (Belgium and Germany) as well as the European Border and Coast Guard Agency (EBCGA/Frontex) participated to the meeting.

Carrier representatives were provided with supplementary views of the Commission services on the key elements of the draft Implementing Regulations for Carriers (one for each, EES and ETIAS). Commission expects to have a stable text by mid-2020. It was also discussed that possible consultation options with carriers' representatives would be explored by the Commission.

Several points, remaining open from previous meetings, were further discussed, such as the type of identity document(s) supported and the use of secondary documents. Within this context, it was discussed that in specific cases, when Third-Country Nationals (TCNs) hold any of the specific documents listed in Article 2(3) of EES Regulation or Article 2(2) of ETIAS Regulation, the EES and/or the ETIAS Regulations do not apply. Carriers' representatives were wondering whether the systems would be able to "handle" the existence of these secondary documents and the fact that, for instance, a visa exempt TCN passenger would not be in a possession of a valid ETIAS travel authorisation when boarding due to the fact that he/she is holding one of the secondary documents listed in any of the Regulations. As for the different kinds of primary documents (*e.g.* military documents, laissez-passer), ETIAS does not change the existing rules with which travellers are entitled to cross the Schengen External Borders. The Commission, eu-LISA and Frontex would investigate the cases where the VISA was attached to a previous passport no longer valid. As for secondary documents, scanned copies of these will not be receivable by the Web Service.

From a practical point of view, it was pointed out that carriers mostly become aware of the existence of passengers' secondary documents at the check-in desks, where passengers can provide explanation and confirmation of the existence of such documents. It may happen, however, that some passengers go directly to the gate (when speaking about the air industry) and Carriers only meet them there for the first time. This would limit the time and the possibilities to better investigate all individual cases. It was also emphasised that by-passing ETIAS requirements by, for example, requesting only an online confirmation of the availability of secondary document aiming at justifying the absence of ETIAS travel authorisation shall be avoided.

Scope of the obligation concerning carrier and cargo vessels was also further discussed. In principle, cargo ships do not fall under the scope of application of EES or ETIAS. However, any ship (including cargo ships) carrying at least twelve (12) passengers has to be considered as a passenger ship. Furthermore, if there is a commercial relationship between even one passenger and the sea carrier, there is an obligation to check the status of the passenger.

Process in cases of deviations in scheduled route was also discussed. For the purpose of the Web service, carriers have to indicate the scheduled MS of arrival. In case of *force majeure* situation specific rules and exceptional measures are applicable in accordance with the Schengen Borders Code. These specific rules do not affect the obligation of carriers to specify the scheduled MS of arrival. It was also confirmed that the implementation of the EES and ETIAS will not change anything to the application of the Schengen Borders Code.

Linked to this topic, it was discussed that according to ETIAS Regulation, carriers do not have to check the status of <u>passengers in transit.</u> In case a passenger decides to leave the airport's transfer zone, he/she needs an ETIAS travel authorisation to be able to enter the MS territory, which is a border issue and does not fall under the responsibility of carriers (*i.e.* the fact that a TCN traveller does not hold a valid ETIAS travel authorisation). Carriers' representatives highlighted however that the presented situation is not only a simple "border issue" as Carriers may be fined by MSs when they bring a TCN traveller without valid documents or travel authorisation to the MS borders. Moreover, participants had different opinions on who is to be considered as a transit passenger, *e.g.* the one who does not leave the airport's transit zone or the one who has multiple flights under the same booking reference code or on the same ticket. Under ETIAS, a transit traveller is one who has one ticket from the same company (or company group) and whose final destination is not within Schengen area. This is the only way the carrier has accurate knowledge about the traveller's final destination. This does not prevent the carrier from deciding to check the status of the traveller anyhow, should the carrier wish to do so. Nothing legally prevents the carrier to perform such verification.

Concerning cruise ships, it was also clarified that if ETIAS travel authorisation expires during the journey of a cruise ship, this should be valid at the arrival to the Schengen area. The obligation of the carrier is to verify the status for the day of arrival to the Schengen area. Moreover, representatives of sea industry pointed out that they often share the ports' infrastructure with the MS border authorities. For this reason, it was advised to carriers to coordinate and maintain effective contacts with these authorities at national level.

Concerning operational matters, EBCGA/Frontex provided a short presentation on <u>Carrier Assistance Center</u> (CAC) and on how Carriers' working process is envisaged. EBCGA/Frontex recalled the open point being the phone hotline to CAC. As indicated during the previous meeting of the Working Group, CAC may be contacted through web form and e-mail. EBCGA/Frontex is currently exploring the possibility of ensuring phone hotline as a fall-back solution, taking into account the high operational workload and the heavy back-end resource needs. Carriers' representatives highlighted the importance of having a direct phone line, especially in the first years of implementation.

Concerning the <u>Carrier registration process</u> it was highlighted that before a Carrier is allowed to use the authentication scheme to access the Carrier Interface, it shall register through CAC .The CAC has the right to de-register a Carrier *i)* when considered relevant and/or *ii)* upon request of a MS with a reasoned opinion and following consultation with other MSs. It was asked how the registration process would work for air carriers/airlines and, in particular, whether the airline or the service provider should register. IATA stressed the importance to have a clear information on what will trigger the registration and on the specific type of information that CAC needs.

CAC is planned to be ready by Q3 2021, so that it will be able to provide the Carrier compliance and certification process in Q3-Q4 2021. Maritime single window information will be shared with eu-LISA, who will assess possibility to reuse processes, etc.

Furthermore, registration as well as validation process were briefly presented by stressing the fact that it will be a collaborative approach between eu-LISA and EBCGA/Frontex (technical implementation will be the responsibility of eu-LISA). Finally, it was asked if the funding is provided to implement the new obligations for Carriers, to which COM replied negatively.

eu-LISA reminded participants of the main topics discussed at recent technical meetings, namely at the 1st ad hoc technical meeting on 6 November 2019 and another technical meeting with sea carriers on 6 December 2019. These meetings addressed technical elements based on a questionnaire, and aimed at finalising the technical specifications and the Implementing Regulations for Carriers. Three (3) possible ways of accessing the Carrier Interface were also reiterated, namely a system-to-system

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interface, a web interface and a mobile application. It was also confirmed that two (2) transfer protocols (the way the message format would be transmitted) are predominant: IBM MQ and REST API. Concerning the message format, discussion focused on industry standards presented (UN/EDIFACT PAXLST/CUSRES, XML, JSON) and on whether they are sufficient or if further message formats supported by other reservation control systems should also be considered.

The Agency presented a number of open points on technical matters, such as the message content, fall-back mechanism for Carrier connection and roadmap for implementation. Concerning the message content, some elements, namely route identification for land carriers and airport/port code for air and sea carriers (scheduled data and time of departure; identification number, if available; if identification number is not available, other means of identifying the transport) are still subject to discussion. The Commission and eu-LISA will further examine possible system responses in case of "Not OK" answer as well as how to handle errors.

The meeting was concluded with the identification of the following next steps:

- The 4th meeting of the Working Group for Carriers is scheduled for February 2020 in Brussels. The exact date will be communicated in due time as there is a need to further check the logistics;

- Conclusions of the meeting and other relevant documents will be made available on eu-LISA's website (dedicated page for the activities of the Working Group for Carriers).

Annex

Participants to the 3ʳᵈ meeting of the informal ad hoc Working Group for Carriers

A4E
Air France/KLM
Austrian Airlines
BARIG (DE)
ECSA (6 participants)
Fipra
IATA (5 representatives)
Interferry
Svensk Sjöfart (SE)
Transportföretagen (SE)
Belgium
Germany
Representatives of Frontex
Representatives of the European Commission
Representatives of eu-LISA

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