Conclusions

4th meeting of the informal ad hoc Working Group for Carriers

The meeting that took place on 5 March 2020 in Brussels was the fourth instalment of the informal *ad hoc* Working Group for Carriers. The meeting was hosted by the European Commission (COM/DG HOME) 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). Thirty eight (38) participants attended the meeting, representing air, sea and land passenger transport industries and service providers (*see* the Annex). Representatives from two (2) Member States (Belgium and Germany), other Commission services (DG MOVE) as well as the European Border and Coast Guard Agency (Frontex) also participated to the meeting.

COM provided the Carrier representatives with an **overview status of the draft Implementing Regulations (IRs)** to be discussed at the next Smart Borders Committee meeting on 23 March 2020 and. Once the text of the IRs will be finalised by the Smart Borders Committee, they will be circulated within COM for inter-service consultation. It could be anticipated that the draft IRs will be shared with Carriers around May 2020. It was particularly pointed out that, following the discussions of previous meetings of the Working Group, the draft IRs will include new features for "not OK" replies by providing Carriers with additional information on whether these replies are coming from the EES or ETIAS. Moreover, it was clarified that the different options to connect to the Carrier Interface, listed in the draft IRs, will not be exclusive to each other.

COM also indicated that a list of **primary travel documents**, with which a passenger is entitled to cross external borders, is defined in accordance with Decision 1105/2011/EU.[1] This list is publically available under COM website via a constantly updated electronic publication.[2]

Participants agreed that the existence of **documents that do not fall under the scope of EES and/or ETIAS Regulations**[3] should be indicated[4] and Carriers would remain responsible on which document enables a Third-Country National (TCN) traveller to be exempted from the obligation of being checked against ETIAS. In case of a third country's passport not having a Machine-Readable Zone (MRZ), Carriers need to check the document manually. COM will investigate these cases and possible issues with paper documents can be further discussed during a next meeting.

The **scope of Carriers' obligations *vis-a-vis* the shipping companies** was further discussed. COM indicated that, if there is a commercial relationship between even one passenger and a shipping company transporting them to the Schengen Area, there is an obligation for the shipping company to check the status of the passenger. The EES and ETIAS Regulations or Schengen Border Code do not contain provisions that shipping companies transporting up to twelve (12) passengers are excluded from the respective obligations. Representatives of shipping companies/ sea Carriers indicated that this interpretation would have a significant impact on their industry. This will mean that, amongst other, all the associated operations will have to follow the provisions of the Carrier Implementing Regulations

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[1]   Decision No 1105/2011/EU of the European Parliament and of the Council of 25 October 2011 on the list of travel documents which entitle the holder to cross the external borders and which may be endorsed with a visa and on setting up a mechanism for establishing this list (OJ L 287, 4.11.2011, p. 9).

[2]   https://ec.europa.eu/home-affairs/sites/homeaffairs/files/what-we-do/policies/borders-and-visas

[3]   See Article 2(3) of Regulation (EU) 2017/2226 on establishing an Entry/Exit System (EES) to register entry and exit data and refusal of entry data of third-country nationals crossing the external borders of the Member States and determining the conditions for access to the EES for law enforcement purposes and Article 2(2) of Regulation (EU) 2018/1240 on establishing a European Travel Information and Authorisation System (ETIAS).

[4]   For more details on this matter please consult the summary of the technical discussion on secondary documents in PAXLST below as well.

including the registration and authentication of the shipping companies that may transport also passengers with the CAC.

Frontex provided a presentation on the business process architecture of the **Carrier Assistance Centre** (CAC) and its business process landscape. CAC business process will interact with/depend on the process both from Carriers and eu-LISA and it will have four (4) different layers. The operational business processes will include registration, support management, de-registration and failure management.

- **Carrier registration** is meant to provide the Carrier with access to the Carrier Interface (CI), by submitting a registration request to CAC. Registration request should be submitted by a web form and it is planned to start in Q3 2021. Before that, by the end of 2020, each Member State will be invited to provide an exhaustive list of Carriers operating internationally on their territories.

- **Support management** will be provided in operational and technical requests submitted by registered Carriers through email, web form and phone line. Phone line should only be used in urgent situations that will be defined in a Standard Operating Procedure. Air Carrier representatives highlighted that it should be clarified when a situation is considered "urgent" and/or in which cases Carriers would be allowed to call the CAC directly; Carriers were not necessarily considering a technical issue as an emergency and argued that the phone-line solution should be used more extensively (*e.g.* at the check-in desks or gates where the Carriers often see passengers for the first time and they need to provide them with solutions in real time). Carriers also stressed that the person answering the phone calls must be in the possession of all necessary means to provide support to Carriers.

- **Deregistration** will result in removing the access to the Carrier Interface for a specific Carrier through deregistration process initiated by a Member State, COM, eu-LISA or the CAC.

- Within the context of **failure management**, a notification of a technical problem of the ETIAS Information System will be sent by the ETIAS CU to eu-LISA and Carriers.

Carriers enquired about the possible implication of deregistration, whether it will prevent sea Carriers to enter European ports. COM pointed out that deregistration is mandatory in two (2) cases for now. Before the actual de-registration happens, adequate time will be provided for consultations and Carrier will be given notice to verify the situation. Following de-registration, the Carrier will have no access to the three interfaces to check the status of passengers. Nevertheless, such deregistration will have no effect on the powers vested by the national authorisation(s) issued by the competent MS's authorities to the Carrier.

Within the context of the question of bus Carriers, who enquired if the status check could be done by a subcontractor, the COM reminded that the **liability of checking the valid travel documents and travel authorisation** is still lying on the Carriers.

Participants discussed that **checks/verifications on passengers** need to be done at the earliest 48 hours prior to the scheduled boarding from a non-Schengen border crossing point (BCP) to a Schengen BCP. Nevertheless, the verification can also be done at the very last minute, even before departure, if this solution fits better for the Carriers (*e.g.* for land Carriers). In this case, however, Carriers will have very limited time to follow-up if a passenger has problem with his/her travel authorisation or visa. In **case of multiple entries**, verifications need to be done before departing towards the first BCP of arrival in the Schengen area and repeated every time when the boat leaves the Schengen Area and re-enters the Schengen Area again. Carriers asked about the possibility whether in case of multiple entries the checks could be done with the date of the last entry to the Schengen area, given that if ETIAS is valid at the

end of a journey it is supposed to be valid during the entire journey. Carriers were however reminded that as ETIAS authorisation could be revoked during a journey, this option would not be acceptable.

Carriers also highlighted the need of a **Standard Operating Procedures (SOPs)** document that will provide Carriers with guidance on different business cases. Frontex will prepare one by taking into consideration existing good practices (*e.g.* from Canada).

Flagging of the **documents that do not fall under the scope of EES and/or ETIAS Regulation in PAXLST** was also discussed. COM proposed flagging the existence of these documents by defining a second occurrence of the DOC segment in the PAXLST. Carriers proposed the consideration of indicating the type and number of these travel document(s) in the PAXLST in accordance with existing international standards, as PAXLST already includes a list of codes for different types of documents. The proposal will be examined by COM and eu-LISA for feasibility and whether it abides with data protection recommendations. eu-LISA reminded that concerning air carriers the response time of maximum four (4) seconds is applicable for one (1) message, regardless the number of passengers (maximum 99) listed within the message. It was also confirmed that for the air industry, the number of passenger in a single message is rarely above 20. The issue might be with the sea industry with thousands of passengers to check.

Concerning **CUSRES responses**, a code table has to be agreed for the Application Error Code (9321) of the ERC segment in order to report replies to queries submitted to the EES or ETIAS. The carriers reminded that in case of use of the PAXLST, the Carrier Interface (CI) shall respect to the maximum extend the standard.

Participants also discussed the topic of **route identification**. Air Carriers already provide the necessary information (flight number, departure and destination details) as it is currently accommodated now in the PAXLST message. It was also agreed that sea Carriers will provide all necessary route information soon, as they are currently working in this direction, with internal consultations on their side. Land Carriers (including temporary coach services) still need to assess the different options to be able to provide such information. COM clarified that route identification is necessary for logging purposes, in order for the Carriers to be able to prove they have carried out the checks requested by the Carrier IR, but also for MS to know by which means of transport the travellers arrived at the border.

Delegations discussed the **fall-back procedure**. To increase service accessibility and availability more than one (1) communication channel is provided to Carriers to query the carrier gateway, namely system-to-system interface, web interface (via browser) and mobile application. Mobile application and web portal are not considered as suitable fall-back options, especially by air Carriers, due to the lack of access to internet to use such kind of solution and/or the volume of data being too large to be encoded manually. Within the context of the fall-back procedures the IRs provide that the Carriers are relieved from the obligation of checking the passengers' status if the Central System is not working because of technical problems. In case of an outage of the Central System this period needs to be well communicated as well as the time when the Central System starts working again. Carriers also argued that there is a need for fall-back procedures when Carriers' systems are not operational.

Concerning the **type of mobile devices**, eu-LISA highlighted that mobile application for carrier access to the Carrier Interface will support several platforms (iOS, Android) including their latest and two (2) previous versions. Feedback from Carriers was requested whether they need to provide dedicated devices to their staff or the latter can bring their own (Bring Your Own Device policy). Carrier interface will be supported by most of the recent **browsers** as defined in the Europa Web Guide (latest version as of end of 2019).

eu-LISA also pointed out the **Multi-Factor Authentication** (MFA) mechanism, in which user accounts will be created by Carriers and their administrators. Carriers were wondering whether a third party can

use a licence used by a Carrier for registration. Eu-LISA replied that this should be part of their business models with such entities, properly assessed and properly communicated.

Carriers will take the aforementioned points of mobile devices, browsers and multi-factor authentication into consideration and will come back with further feedback on potential constraints.

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

- The 5th meeting of the Working Group for Carriers is scheduled for May/June 2020 in Brussels. The exact date will be communicated in due time. The meeting will cover various topics, including exceptions as provided by Article 2 of EES and ETIAS Regulations, unscheduled ship travels and other use cases;
- Additional dedicated technical meetings could also be organised if deemed necessary, per relevant sector, as requested by the participants, due to the difference in their maturity levels (air Carriers more mature, due to the API/PNR implementations);
- 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);
- IATA, on the basis of their experience with other countries implementing iAPI and e-Travel Authorization Systems, will provide a list of practical use cases where the CAC could provide operational support.

Annex

Participants to the 4ᵗʰ meeting of the informal ad hoc Working Group for Carriers

A4E (3 representatives)
ECSA (3 representatives)
Fipra
IATA (8 representatives)
AIRE
IRU
TUI
Danish Shipping (DK)
Assarmatori (IT)
Svensk Sjöfart (SE)
Transportföretagen (SE)
Belgium
Germany
Representatives of Frontex
Representatives of the European Commission (DG HOME, DG MOVE)
Representatives of eu-LISA