



Brussels, 12.3.2019
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COMMISSION DELEGATED REGULATION (EU) .../...

of 12.3.2019

**supplementing Regulation (EU) No 515/2014 with regard to the allocation of funding
from the general budget of the Union to cover the costs for the development of the
European Travel Information and Authorisation System**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE DELEGATED ACT

Article 15 of Regulation (EU) No 515/2014 of the European Parliament and of the Council¹ establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, empowers the Commission to adopt delegated acts.

In accordance with Article 15 of Regulation (EU) No 515/2014, the purpose of this Delegated Regulation is to define the share of the amount referred to in Article 5(5) point (b), of Regulation (EU) No 515/2014 to be allocated to the development of the European Travel Information and Authorisation System (as referred to as “ETIAS”), following the adoption on 12 September 2018 of the Regulation (EU) No 2018/1240² and its entry into force on the 9 October 2018.

Regulation (EU) 2018/1240 specifies the type of costs to be covered by the EU budget, the overall amount - EUR 96.5 million - that Member States shall receive as additional allocation from the ISF-Borders and Visa instrument for the development of ETIAS, and the implementation modalities applicable to the EU funding allocated respectively to the agencies and Member States. However, it does not define neither the funding per Member State, nor the amount of EU funding that shall be allocated from the ISF-Borders and Visa instrument to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice and to the European Border and Coast Guard Agency for the development of ETIAS.

Consequently, such allocation, and the respective breakdown between the different beneficiaries, has to be defined through a Commission delegated act, in accordance with Regulation (EU) No 515/2014, in particular Article 5(3) (f), Article 5(5) (b), Article 15 and Article 17.

This Commission Delegated Regulation sets out an amount of EUR 209 904 000 to cover the costs incurred with the development of the ETIAS, in accordance with Article 85(1) of Regulation (EU) 2018/1240. Since this amount is mobilised from the financial envelope of EUR 791 000 000 envisaged under Article 5(5) (b) of Regulation (EU) No 515/2014, the necessary resources have already been earmarked in the EU 2018 budget, and planned in the 2019 and 2020 budgets. Therefore, this Delegated Regulation has no additional financial impact.

The amount of EUR 209 904 000 is calculated taking in consideration the costs specified in Article 85(1) of Regulation (EU) 2018/1240 related to the development of the ETIAS that would be borne by extra funding from the ISF-Borders and Visa instrument, and will be distributed in the following manner:

- An amount of EUR 100 873 000 will be allocated to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice (referred to as “eu-LISA”) established by Regulation (EU) 2018/1726. It is estimated that with such funding eu-LISA will be able to cover, as

¹ Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC (OJ L 150, 20.05.2014, p. 143).

² 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).

referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred in connection with the development of the ETIAS Information System, notably a Central System, a National Uniform Interface (NUI) in each Member State, a secure Communication Infrastructure between the Central System and the National Uniform Interfaces, including a public website and a mobile app for mobile devices, an email service, a secure account service, a carrier gateway, a web service and a software enabling the ETIAS Central Unit and the ETIAS National Units to process the applications.

- An amount of EUR 12 531 000 will be allocated to the European Border and Coast Guard Agency (referred to as “FRONTEX”), established by Regulation (EU) 2016/1624. It is estimated that with such funding FRONTEX will be able to cover, as referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred in connection with the setting up of the ETIAS Central Unit, including the preparation of the office space, the procurement and installation of the IT equipment to be used by the staff and the recruitment and training of the Central Unit staff members.
- An overall amount of EUR 96 500 000 will be allocated to the Member States participating in ETIAS. It is estimated that with such funding each participating Member State will be able to cover, as referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred in connection with the integration of the existing national border infrastructure and the connection to the National Uniform Interface, with the hosting of the National Uniform Interface, and with the establishment of the ETIAS National Units, including the procurement and the installation of the IT equipment to be used by the staff and the recruitment and training of the staff members.

As the costs per Member State for the activities referred to above are very similar, independently of the size of the country, length of external borders, number of border crossing points, number of persons crossing the borders, etc., such amount will be allocated at equal shares to the participating Member States. Such amount should be added to their respective National Programmes under the ISF - Borders and Visa instrument.

All amounts mentioned above correspond to the amounts in the Commission's Legislative Financial Statement (LFS) annexed to the COM proposal³ that led to Regulation (EU) 2018/1240.

This Commission Delegated Regulation does not address the financial support foreseen under Article 85(3) of Regulation (EU) 2018/1240 that, as set out in that article, will be dealt with in a separate delegated act⁴ in accordance with Article 89 of that Regulation.

2. CONSULTATIONS PRIOR TO THE ADOPTION OF THE ACT

Pursuant to the Better Regulation rules, and pursuant to recital 41 of Regulation (EU) 515/2014, the Commission should consult experts from all Member States when preparing delegated acts.

Given the technical nature of this Commission Delegated Regulation, the Commission considered that Member States should be consulted through a written procedure, giving them (via the Member States Expert Group) the opportunity to send written comments on the draft Delegated Regulation between 19 December 2018 and 20 January 2019. Following the

³ COM(2016) 731 of 16.11.2016.

⁴ Adoption of this delegated act is planned for the last quarter of 2019.

comments provided by the experts from the Member States, a revised draft was circulated to the Member States.

As regards prior consultations on the topic, the latter was extensively discussed during the preparation of the proposal for Regulation (EU) 2018/1240. In the framework of the feasibility study on ETIAS, the Commission collected the views of Member State experts on border control and security. In addition, the main elements of the ETIAS proposal were discussed in the framework of the High Level Expert Group on Information Systems and Interoperability⁵ that was set up as a follow-up of the Communication on Stronger and Smarter Borders of 6 April 2016⁶ Consultation took also place with representatives of the air, sea and railway carriers, as well as with representatives of Member States with external land borders. As part of the feasibility study, the Fundamental Rights Agency was also consulted.

For the reasons above, notably the fact that this delegated act simply translates into funding terms the measures set out in Regulation (EU) 2018/1240, and that extensive consultations took place in the framework of the feasibility study and when Regulation (EU) 2018/1240 was proposed, the Commission considered that there was no added value in publishing the draft Delegated Regulation for further consultation.

3. LEGAL ELEMENTS OF THE DELEGATED ACT

Article 15 of Regulation (EU) No 515/2014 of the European Parliament and of the Council establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa, empowers the Commission to adopt a delegated act establishing the breakdown of the amount referred to in Article 5(5) (b) of Regulation (EU) No 515/2014 for developing IT systems, in case the breakdown of such amount is not made in the relevant Union legislative acts.

Article 17 of Regulation (EU) No 515/2014 defines the conditions under which such delegated act can be adopted.

Article 85 of Regulation (EU) 2018/1240 of the European Parliament and of the Council establishing the European Travel Information and Authorisation System (ETIAS) details the costs incurred with the implementation of the ETIAS that would be supported with the general budget of the Union.

⁵ The High Level Expert Group on Information Systems and Interoperability was set up in 2016 through Commission Decision C(2016) 3780 with the mandate to help developing a joint strategy to make data management in the Union more effective and efficient, in full respect of data protection requirements, to better protect its external borders and to enhance its internal security. The HLEG met on [five](#) occasions and its works were complete with the issuance of its final report in May 2017.

⁶ COM(2016) 205 final.

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supplementing Regulation (EU) No 515/2014 with regard to the allocation of funding from the general budget of the Union to cover the costs for the development of the European Travel Information and Authorisation System

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 515/2014 of the European Parliament and of the Council of 16 April 2014 establishing, as part of the Internal Security Fund, the instrument for financial support for external borders and visa and repealing Decision No 574/2007/EC⁷, and in particular the second subparagraph of Article 15 thereof,

Whereas:

- (1) Regulation (EU) No 515/2014 allocates EUR 791 000 000 for developing IT systems supporting the management of migration flows across the external borders, subject to the adoption of the relevant Union legislative acts.
- (2) Article 15 of Regulation (EU) No 515/2014 empowers the Commission to adopt a delegated act establishing the breakdown of the amount referred to in Article 5(5)(b) of Regulation (EU) No 515/2014 for developing IT systems, in the case where the breakdown of such amount is not made in the relevant Union legislative acts.
- (3) Regulation (EU) 2018/1240 of the European Parliament and of the Council⁸ established the European Travel Information and Authorisation System (ETIAS). The ETIAS is a central component of the IT systems referred to in Regulation (EU) No 515/2014.
- (4) Regulation (EU) 2018/1240 does not determine either the total size of funding to be mobilised from the EUR 791 000 000 financial envelope foreseen in Regulation (EU) No 515/2014 to cover the costs related to the development of ETIAS, or its breakdown per type of costs and beneficiaries. Therefore, it is necessary to determine such allocation, and the respective breakdown between the different beneficiaries, through a Commission delegated act, in accordance with Regulation (EU) No 515/2014.
- (5) Regulation (EU) No 515/2014 sets [in its Article 6(3a)] the overall amount of EUR 96,5 million that Member States are to receive to cover the costs related to the development of the ETIAS.
- (6) From the amount provided for in Article 5(5)(b) of Regulation (EU) No 515/2014, an overall allocation of EUR 209 904 000 should be made available to cover the costs

⁷ OJ L 150, 20.5.2014, p. 143.

⁸ 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).

related to the development of the ETIAS referred to in Article 85(1) of Regulation (EU) 2018/1240.

- (7) Of that overall allocation, an amount of EUR 100 873 000 should be allocated to the European Agency for the operational management of large scale information systems in the area of freedom, security and justice established by Regulation (EU) 2018/1726 of the European Parliament and of the Council⁹ (“eu-LISA”). Such funding should cover, as referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred by eu-LISA with the development of the ETIAS Information System, notably the establishment of the Central System, a National Uniform Interface (NUI) in each Member State, a secure Communication Infrastructure between the Central System and the National Uniform Interfaces, a public website and a mobile app for mobile devices, an email service, a secure account service, a carrier gateway, a web service and a software enabling the ETIAS Central Unit and the ETIAS National Units to process the applications.
- (8) Of that overall allocation, an amount of EUR 12 531 000 should be allocated to the European Border and Coast Guard Agency established by Regulation (EU) 2016/1624 of the European Parliament and of the Council¹⁰ (FRONTEX). Such funding should cover, as referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred by FRONTEX for the setting up of the ETIAS Central Unit, including the preparation of the office space, the procurement and installation of the IT equipment to be used by the staff and the recruitment and training of the Central Unit staff members.
- (9) Of that overall allocation, an overall amount of EUR 96 500 000 should be allocated to the Member States implementing the ETIAS. Such funding should cover, as referred to in Article 85(1) of Regulation (EU) 2018/1240, the costs incurred by Member States in connection with the integration of the existing national border infrastructure and the connection to the National Uniform Interface, with the hosting of the National Uniform Interface, and with the establishment of the ETIAS National Units, including the procurement and the installation of the IT equipment to be used by the staff and the recruitment and training of the staff members. As the costs per Member State for those activities are very similar, independently of the size of the country, length of external borders, number of border crossing points, number of persons crossing the borders, etc., such amount should be allocated at equal shares to the participating Member States.
- (10) Given that Regulation (EU) 2018/1240 builds upon the Schengen *acquis*, Denmark, in accordance with Article 4 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, decided to implement Regulation (EU) 2018/1240 in its national law¹¹. Denmark is therefore bound under international law by this Regulation.

⁹ Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 (OJ L 295, 21.11.2018, p. 99).

¹⁰ Regulation (EU) 2016/1624 of the European Parliament and of the Council of 14 September 2016 on the European Border and Coast Guard and amending Regulation (EU) 2016/399 of the European Parliament and of the Council and repealing Regulation (EC) No 863/2007 of the European Parliament and of the Council, Council Regulation (EC) No 2007/2004 and Council Decision 2005/267/EC

¹¹ Denmark notified on 21 December 2018, in accordance with Article 4 of Protocol 22, its decision to implement Regulation (EU) 2018/1240 in its national law.

- (11) This Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC¹²; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (12) This Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC¹³; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application.
- (13) As regards Iceland and Norway, this Regulation constitutes a development of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*¹⁴ which falls within the areas referred to in Article 1, Point A of Council Decision 1999/437/EC¹⁵.
- (14) As regards Switzerland, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹⁶ which fall within the area referred to in Article 1, Point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC¹⁷.
- (15) As regards Liechtenstein, this Regulation constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*¹⁸ which fall within the area referred to in Article 1, Point A of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU¹⁹.

¹² Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

¹³ Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

¹⁴ OJ L 176, 10.7.1999, p. 36.

¹⁵ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

¹⁶ OJ L 53, 27.2.2008, p. 52.

¹⁷ Council Decision 2008/146/EC of 28 January 2008 on the conclusion, on behalf of the European Community, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis* (OJ L 53, 27.2.2008, p. 1).

¹⁸ OJ L 160, 18.6.2011, p. 21.

¹⁹ Council Decision 2011/350/EU of 7 March 2011 on the conclusion, on behalf of the European Union, of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*, relating to the abolition of checks at internal borders and movement of persons (OJ L 160, 18.6.2011, p. 19).

- (16) This Regulation constitutes an act building upon, or otherwise relating to, the Schengen acquis within, respectively, the meaning of Article 3(2) of the 2003 Act of Accession, Article 4(2) of the 2005 Act of Accession and Article 4(2) of the 2011 Act of Accession.
- (17) In view of the need to start the practical implementation of Regulation (EU) 2018/1240 without further delay, so that the ETIAS is fully operational three years after the entry into force of that Regulation, as planned, and in order to allow therefore for the prompt application of the measures provided for in this Regulation, this Regulation should enter into force on the day following that of its publication in the *Official Journal of the European Union*.
- (18) The measures provided for in this Regulation are in accordance with the opinion expressed by experts from all Member States consulted specifically for that purpose.
- (19) Regulation (EU) No 515/2014 should therefore be supplemented accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

1. A total amount of EUR 209 904 000 shall be allocated from the general budget of the Union to cover costs referred to in Article 85(1) of Regulation (EU) 2018/1240.
2. The amount referred to in paragraph 1 shall be taken from the amount of EUR 791 000 000 earmarked for the development of IT systems referred to under Article 5(5)(b) of Regulation (EU) No 515/2014.

Article 2

1. The amount referred to in Article 1(1) shall be used as follows:
 - (a) EUR 100 873 000 shall be allocated to eu-LISA to cover the costs incurred in connection with the development of the ETIAS Information System, as referred to in Article 85(1) of Regulation (EU) 2018/1240;
 - (b) EUR 12 531 000 shall be allocated to the European Border and Coast Guard Agency to cover the costs incurred in connection with the setting up of the ETIAS Central Unit, as referred to in Article 85(1) of Regulation (EU) 2018/1240;
 - (c) EUR 96 500 000 shall be allocated to the Member States to cover the costs incurred in connection with the integration of the existing national border infrastructure and the connection to the National Uniform Interface, with the hosting of the National Uniform Interface, and with the establishment of the ETIAS National Units, as referred to in Article 85(1) of Regulation (EU) 2018/1240.
2. The amount referred to in paragraph 1(c) shall be allocated in equal shares to the Member States.

Article 3

This Regulation shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Brussels, 12.3.2019

For the Commission
The President
Jean-Claude JUNCKER