

COMMISSION IMPLEMENTING DECISION (EU) 2022/1462**of 2 September 2022****on the requirements for the means of audio and video communication for the interview pursuant to Article 27(5) of Regulation (EU) 2018/1240 of the European Parliament and of the Council**

THE EUROPEAN COMMISSION,

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

Having regard to 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 ⁽¹⁾, and in particular Article 27(5) thereof,

Whereas:

- (1) Regulation (EU) 2018/1240 established a European Travel Information and Authorisation System (ETIAS) as a system for third-country nationals exempt from the requirement to be in possession of a visa when crossing the external borders. It has laid down the conditions and procedures to issue or refuse a travel authorisation.
- (2) The ETIAS National Unit of the Member State responsible, when examining and deciding on applications for travel authorisations, may under certain conditions invite the applicant to an interview in his or her country of residence. In principle, this interview should take place at its consulate located the nearest to the place of residence of the applicant.
- (3) Audio and video communication should facilitate the application procedure taking into account recent technological developments, providing different ways to conduct a remote interview. Therefore, it is necessary to define the requirements for the remote audio and video means of communication. These requirements should include rules on data protection, security and confidentiality. It is also necessary to adopt rules on the testing, selection and operation of the tools.
- (4) Concerning the handling of personal data this decision refers to Regulation (EU) 2016/679 of the European Parliament and of the Council ⁽²⁾. In this context, where the interview is recorded, the applicant shall be notified about the recording and consent to the recording before the start of the interview.
- (5) Given that Regulation (EU) 2018/1240 builds upon the Schengen *acquis*, 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, Denmark notified the implementation of Regulation (EU) 2018/1240 in its national law. Denmark is therefore bound by this Decision.
- (6) This Decision constitutes a development of the provisions of the Schengen *acquis* in which Ireland does not take part ⁽³⁾; Ireland is therefore not taking part in the adoption of this Decision and is not bound by it or subject to its application.

⁽¹⁾ OJ L 236, 19.9.2018, p. 1.

⁽²⁾ Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

⁽³⁾ This Decision falls outside the scope of the measures provided for in 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).

- (7) As regards Iceland and Norway, this Decision constitutes a development of the provisions 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 association of those two states with the implementation, application and development of the Schengen *acquis* ⁽⁴⁾, which fall within the area referred to in Article 1, point A of Council Decision 1999/437/EC ⁽⁵⁾.
- (8) As regards Switzerland, this Decision constitutes a development of the 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* ⁽⁶⁾, 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/EC ⁽⁷⁾.
- (9) As regards Liechtenstein, this Decision 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* ⁽⁸⁾ 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/EU ⁽⁹⁾.
- (10) This Decision constitutes an act building upon, or otherwise relating to, the Schengen *acquis* within, respectively, the meaning of Article 3(1) of the 2003 Act of Accession, Article 4(1) of the 2005 Act of Accession and Article 4(1) of the 2011 Act of Accession.
- (11) The European Data Protection Supervisor delivered an opinion on 10 May 2021.
- (12) The measures provided for in this Decision are in accordance with the opinion of the Smart Borders Committee,

HAS ADOPTED THIS DECISION:

Article 1

Requirements for the means of audio and video communication including as regards data protection, security and confidentiality

Requirements for the means of audio and video communication, including as regards data protection, security and confidentiality to interview an applicant pursuant to Article 27(4) of Regulation (EU) 2018/1240 are set out in this Decision and in the Annex.

⁽⁴⁾ OJ L 176, 10.7.1999, p. 36.

⁽⁵⁾ 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).

⁽⁶⁾ OJ L 53, 27.2.2008, p. 52.

⁽⁷⁾ 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).

⁽⁸⁾ OJ L 160, 18.6.2011, p. 21.

⁽⁹⁾ 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).

*Article 2***Testing of suitable tools**

1. The European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) shall analyse descriptions of tools for audio and video communication available on the market, compare them to the requirements set out in the Annex and pre-select tools for audio and video communication whose descriptions meet the requirements.
2. eu-LISA shall, in cooperation with the national authorities, test the pre-selected tools for audio and video communication. The tests shall, as far as possible, take into consideration the requirements set out in the Annex.
3. eu-LISA shall analyse the results of the tests and provide to Member States a list of suitable tools which are recommended.
4. At the request of the Commission, eu-LISA shall reanalyse the description of tools available on the market, compare these with the requirements set out in the Annex and, where needed, test pre-selected tools for the purpose of recommending to Member States an updated list of suitable tools.

*Article 3***Selection of suitable tools and their operation**

1. The ETIAS National Units shall use:
 - (a) a tool selected from the list of suitable tools referred to in Article 2(3);
 - (b) any other tool that meets the requirements set out in the Annex.

Member States shall be responsible for the analysis whether the tools referred to in the first subparagraph, point (b), meet the requirements of the Annex and for their testing.

2. The ETIAS National Units shall be responsible for the monitoring of the operation of the tools and for ensuring that the tools meet the requirements set out in the Annex to this Decision and comply with Regulation (EU) 2016/679.

*Article 4***Entry into force**

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

Done at Brussels, 2 September 2022.

For the Commission
The President
Ursula VON DER LEYEN

ANNEX

1. Objectives

This Annex sets out requirements for the means of audio and video communication, including as regards security and confidentiality rules.

2. Requirements for the means of audio and video communication, including as regards security and confidentiality rules:

#	Description
1	The tool shall support connectivity through internet browsers from at least 3 browser/operating system providers that are widely spread.
2	The tool shall provide the possibility of in-band duplex audio features (not telephony-based) for calls.
3	The tool shall provide the possibility of video-calls using a Webcam.
4	The tool shall provide the possibility for the interviewers to manage participants (identify/accept/reject, mute/un-mute the audio channel, show/hide video channel).
5	The tool shall provide the possibility for the authorized users in the ETIAS National Unit of the Member State responsible or in one of that Member State's consulates, disposing of a permanent audio and video conferencing account, to organise their own conferences via the internet. The tool shall provide the possibility to schedule ahead an audio and video conference and have invitations sent to the applicants.
6	The tool shall provide the possibility for applicants, not having a permanent audio and video conferencing account, to participate in a call using an application, which is available on the internet, and usable on any device (smart phone, tablet, laptop, and desktop) with at least 3 browser/operating system providers that are widely spread. It has to be ensured that the tool is offered to the applicant free of charge.
7	The tool shall provide the possibility to secure interviews with an individual single use PIN code or password.
8	The tool shall provide the possibility to use text chatting.
9	The tool shall provide the possibility to share documents by sharing the screen of the electronic devices.
10	The tool shall provide the possibility to record calls in case required by the ETIAS National Unit. The tool shall provide the possibility to download and save the calls locally.
11	The tool shall provide for end-to-end encryption of all communications.
12	The tool shall provide for all audio and video communications to be logged.
13	The tool shall be available with the latest approved patches and supported versions.
14	The tool shall support varying bandwidths.
15	The availability rate of the tool shall be at least 99,5 % measured on a yearly basis, except for planned maintenance.