

The Entry/Exit System (EES)

Regulation (EU) 2017/2226

DELOITTE BELGIUM AND NETHERLANDS, JUNE 2023

What is the EES?

[Regulation \(EU\) 2017/2226](#)

The Entry/Exit system (EES) is a new automated IT system that will register the movement of non-EU nationals when they cross the borders of the EU.

The system will automatically record and store the **dates, times, and places of entry and exit**. If a person is refused entry, this will also be monitored.

The system was proposed in 2013 as part of the EU's efforts to strengthen the management of external borders to help combat irregular migration and protect against security threats. However, its implementation has been delayed multiple times, and now the EES will not be in force until the end of 2023.

The EES will automatically calculate the duration of authorised stay and generate alerts to the relevant authorities in EU countries when individuals have overstayed. Non-EU nationals who do not possess a valid residence permit are only allowed to stay in the EU for **90 days in a 180-day rolling period**.

The number of days a person has been in the Schengen Area will now be tracked digitally, and therefore, overstaying persons will be more easily identifiable. Therefore, if a non-EU national wishes to stay longer, they should apply for a long-stay visa in line with the national rules of the Member State of residence.

Participating Countries

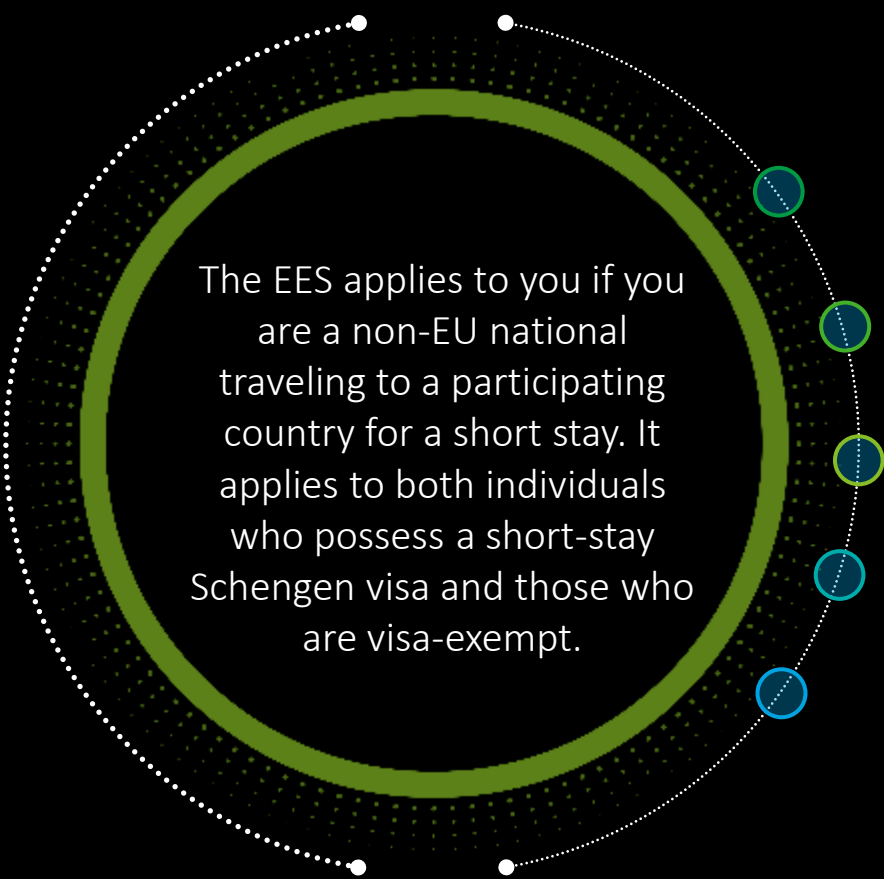
- AUSTRIA
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- BULGARIA
- CROATIA
- CZECHIA
- DENMARK
- ESTONIA
- FINLAND
- FRANCE
- GERMANY
- GREECE
- HUNGARY
- ICELAND
- ITALY
- LATVIA
- LIECHTENSTEIN
- LITHUANIA
- LUXEMBOURG
- MALTA
- NETHERLANDS
- NORWAY
- POLAND
- PORTUGAL
- ROMANIA
- SLOVAKIA
- SLOVENIA
- SPAIN
- SWEDEN
- SWITZERLAND

All countries in the Schengen area will apply Regulation (EU) 2017/2226 (EES). *Bulgaria and Romania* will utilise the EES, though they cannot issue Schengen visas as they are not within the Schengen area. Different rules will apply when traveling to these countries.

Cyprus and Ireland are not within the Schengen area and will not participate in the EES; thus, passports will still be stamped manually.



Scope of the EES



The EES applies to you if you are a non-EU national traveling to a participating country for a short stay. It applies to both individuals who possess a short-stay Schengen visa and those who are visa-exempt.

THE EES DOES NOT APPLY TO:



Persons who hold a residence permit in a country of the Schengen area or a long-term Schengen visa allowing a stay of more than 90 days



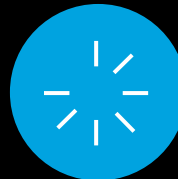
Persons on an ICT, Research or Study permit



Family members of EU nationals, who are in possession of a valid residence permit



Those with passports from Andorra, Monaco, San Marino, the Vatican City or Holy See



Those exempt or granted certain privileges from border checks (e.g., heads of state, cross-border workers)

What will happen at the Border?



Travelers will need to scan their passports or other travel documents at an **automated self-service kiosk** prior to crossing the border.

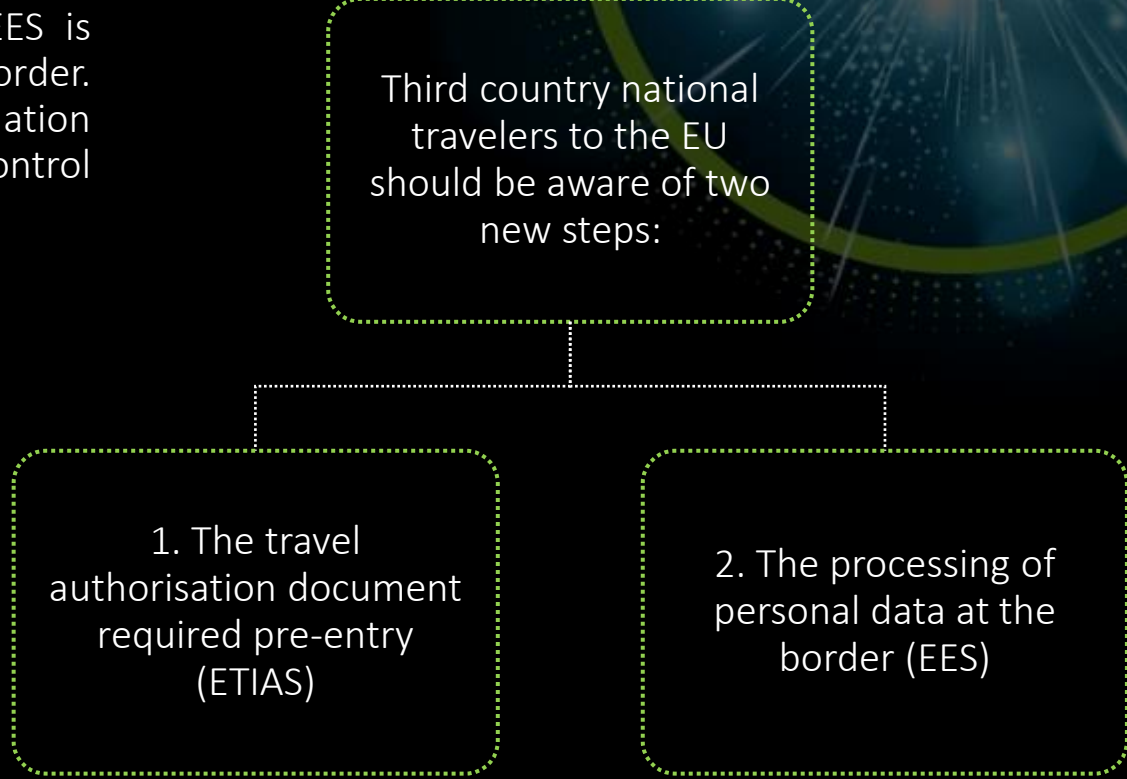
The digitisation of the border check means that border guards will no longer be required to physically check or stamp documents.

Instead, your travel document data and personal biometric data will be collected, along with your entry and exit dates. This information will be electronically registered in the system and stored in an EU-wide database for three years. The data will be updated with each entry.

Interconnected Systems

The EES is an integral part of the smart borders EU reform package. It will operate in conjunction with the new European Travel Information and Authorisation System (ETIAS), which is expected to be operational by November 2023. You can find our previous article on the topic [here](#).

While the ETIAS serves as a pre-screening system, the EES is designed for the collection and processing of data at the border. These two systems will be interconnected, and the information gathered by the ETIAS will be accessible to border control authorities utilising the EES.



Third country national travelers to the EU should be aware of two new steps:

1. The travel authorisation document required pre-entry (ETIAS)

2. The processing of personal data at the border (EES)

Impact of the EES?

The EES is **not expected to have a significant impact** on travellers to the EU. It does not change the requirements to obtain necessary visas or work permits. Those who are visa exempt (such as UK, US, Canada and Japanese nationals) are still allowed to enter the EU for up to 90 days within a 180-day period. However, some impacts are described below:

Overstays will be clearly identifiable

Regular travelers to the EU must closely track their entry and exit dates to avoid accidental overstays. As a non-EU traveler, you have the right to access information on the remaining duration of your authorised stay. You can do this on the [official EES website](#).

Fundamental rights may be impacted

Due to the processing of personal data, the EES has raised some privacy and discrimination concerns. The Regulation notes that the 'competent authorities cannot discriminate against persons based on sex, color, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion'. It remains to be seen how the fundamental rights challenges will be managed.

Consequences of Overstaying

Travelers must ensure that they comply with the maximum stay allowed under EU law.



A non-EU national can remain in the Schengen Area for 90 days within a 180-day rolling period. Periods of previous stay authorised under a residence permit, or long-stay visa, are not calculated in the duration of visa-free stay.

Once an official overstay has been determined, the consequences will depend on the national legislation in place in the respective European country.

Examples of consequences of overstay are:

- 1. You may be removed from the territory**
- 2. You may be subject to administrative fines or detention**
- 3. You may be prevented from re-entering the EU in the future**

Note: Changes to rules for Brexit Permits



UK citizens or family members of UK citizens holding a 'Residence Document under the Withdrawal Agreement' that grants them residency in the Netherlands or Belgium should diligently monitor the duration of their time spent outside the respective member state. It is important for them to ensure compliance with the residency requirements to maintain their residency status.

In the Netherlands, starting from 1 October 2023, the IND (Immigration and Naturalisation Service) will assume that you have changed your main residency and, as a result, withdraw your right of residence if you stay outside the Netherlands for more than 6 months within a 12-month period. The new EES system will enable them to more easily track and accumulate separate periods.

In Belgium, holders of M cards will lose their residence rights if they spend 12 months or more outside of Belgium.



For more information, please contact one of our experts. Be on the lookout for future webinars, during which we will explore further developments in EU policies impacting talent strategies.



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