

RULES OF PROCEDURE

Having regard to Article 10 of Regulation (EU) 2018/1240, establishing an independent European Travel Information and Authorisation System (ETIAS) Fundamental Rights Guidance Board

Article 1

Mandate of the ETIAS Fundamental Rights Guidance Board

1. The ETIAS Fundamental Rights Guidance Board (hereinafter “Guidance Board”) is established by Regulation (EU) 2018/1240 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) 2017/2226¹ (hereinafter “Regulation (EU) 2018/1240”), and in particular by Article 10 thereof.
2. In accordance with Article 10(2) of Regulation (EU) 2018/1240, the mandate of the Guidance Board is to perform regular appraisals and issue recommendations to the ETIAS Screening Board on the impact on fundamental rights of the processing of applications and of the implementation of Article 33 of that Regulation, in particular with regard to privacy, personal data protection and non-discrimination.
3. Furthermore, the Guidance Board shall also support the ETIAS Screening Board in the execution of its tasks when consulted by the latter on specific issues related to fundamental rights, in particular with regard to privacy, personal data protection and non-discrimination.

Article 2

Composition, nomination and membership

1. In accordance with Article 10(1) of Regulation (EU) 2018/1240, the Fundamental Rights Guidance Board is composed of the following members:
 - a) the Fundamental Rights Officer (“FRO”) of the European Border and Coast Guard Agency (hereinafter the “Agency”),
 - b) a representative of the Consultative Forum on Fundamental Rights of the Agency,
 - c) a representative of the European Data Protection Supervisor,
 - d) a representative of the European Data Protection Board, and
 - e) a representative of the European Union Agency for Fundamental Rights.
2. All members shall have up to two alternate representatives (hereinafter “alternate”) who will support and replace the member in his/her absence and act on his/her behalf.
3. Appointments, cessations and other changes concerning the status of the members and alternates of the Guidance Board shall be notified to the Guidance Board Secretariat (hereinafter “Secretariat”) and the Chairperson without undue delay. The Secretariat communicates the change to the other members of the Guidance Board, the Chairperson of the ETIAS Screening Board and the Head of the ETIAS Central Unit.

Article 3

Chairperson and Deputy Chairperson

1. The members shall elect from amongst themselves a Chairperson and Deputy Chairperson by simple majority in secret ballot. The Secretariat then notifies the outcome to the Chairperson of the ETIAS Screening Board, the Executive Director of the Agency and the Head of the ETIAS Central Unit.
2. The Chairperson shall primarily be responsible for:
 - a) convening and setting up the agenda of the meetings of the Guidance Board and chairing the meetings.
 - b) representing the Guidance Board and serving as the spokesperson for the Guidance Board, in particular, by attending the ETIAS Screening Board meetings on behalf of the Guidance Board. When necessary, the Chairperson may delegate attendance to meetings to another member (or his or her alternate) when required due to his or her qualifications and expertise.

¹ OJ L 236, 19.9.2018, p. 1.

3. In the absence of the Chairperson, his or her duties shall be performed by the Deputy Chairperson. Should both the Chairperson and the Deputy Chairperson be unavailable, the Chairperson may assign another member of the Guidance Board to assume her or his role during the absence.
4. The term of office of the Chairperson and the Deputy Chairperson is two years with possible re-election. It ends with effect immediately in case the affiliation to their respective entity ends.
5. At least two months before the end of the mandate of the Chairperson or Deputy Chairperson, the Secretariat shall call for elections for new appointments.
6. In duly justified cases, the Chairperson may be dismissed from this function by the Guidance Board through a simple majority vote. In this case, the Secretariat shall call for an ad hoc election to appoint a new Chairperson.
7. The Chairperson or Deputy Chairperson shall notify the Secretariat of their intention to resign from (or any circumstance that prevents their continuation of) either their function as Chairpersons or Deputy Chairperson or from being members of the Guidance Board as early as possible but no later than two months prior to the date of resignation, unless impossible due to unforeseen circumstances. In this case, the Secretariat shall call for an ad hoc election to appoint a new Chairperson or Deputy Chairperson.

Article 4

Convening the meetings of the Guidance Board

1. The Guidance Board meetings are convened by the Chairperson at least twice a year.
2. The dates of the meetings are proposed by the Chairperson and agreed upon by the members via the Secretariat. Meeting invitations shall be sent at least two weeks in advance.
3. Any member can propose to convene an ad hoc meeting to the Secretariat. The proposal for an ad hoc meeting shall include proposals for the agenda. The Chairperson decides on the proposal after consultation with the members.
4. The draft agenda of the regular meetings shall be proposed by the Chairperson to the members for comments prior to the meeting.
5. The members may submit a reasoned request to include, delete or substitute an item of the draft agenda. The Secretariat shall inform all the members of these requests.
6. The meeting agenda shall be adopted at the beginning of each meeting. If requests for inclusion, deletion or substitution of items have been submitted, each request shall be voted upon separately.
7. As a general rule, meetings are held at the Agency's headquarters, via video conferencing or in hybrid format. Meetings in other venues are also possible in duly justified cases, taking into account the costs, and upon decision of the members of the Guidance Board.

Article 5

Participation, quorum and decision making

1. The working language of the Guidance Board shall be English.
2. If a member cannot attend a meeting of the Guidance Board, an alternate shall be present.
3. In addition to the member, the alternates may also attend the meetings without a right to vote.
4. As a general rule, no more than two representatives per entity shall attend the meetings in persona of the Guidance Board.
5. The Guidance Board takes all decisions by a simple majority of its members or alternates present, with each entity having one vote. However, the Guidance Board should strive to take decisions by consensus of its members. When a member is absent, their alternate has voting rights. The Guidance Board may decide to add minority opinions in documents on request of one or more members. In case of a tied vote, there shall be a second vote. If the second still is a tied vote, the Chairperson shall have casting vote.
6. The minimum quorum to hold a meeting is four members or alternates, each representing a different entity.
7. Decisions on the dates of meetings shall be taken by a simple majority taking due account of the principle of consensus according to Paragraph 5.
8. Members shall inform the Secretariat as to whether they intend to attend the meeting or to be represented by their alternate.
9. Decisions may be submitted to a vote by written procedure if so decided by the Board, or, in urgent cases, at the initiative of the Chairperson. The proposal which is subject to a written procedure shall be sent,

where appropriate, after circulating the text among the members of the Guidance Board for comments, to the members and alternates by the Secretariat. The members shall inform the Secretariat of their vote in writing within a term fixed by the Chairperson which is, in general, two weeks. In urgent cases the Chairperson may decide to shorten this deadline up to a minimum of at least one week. Failure to inform the Secretariat within the fixed term shall be considered to be an abstention. The Secretariat shall inform the members of the result of the vote. The result of the vote is recorded in the minutes of the following meeting of the Guidance Board. The written procedure initiated by the Chairperson shall be interrupted if a member requests within five days of receiving the proposal that the proposal be discussed in a meeting of the Guidance Board.

10. The Guidance Board may invite representatives of the ETIAS Screening Board to attend the meetings of the Guidance Board in an advisory capacity. The Guidance Board may also invite representatives of the Agency, or other Agencies, as well as external experts to participate in its meetings.

Article 6 **Role of the Secretariat**

1. The Secretariat is provided by the Fundamental Rights Office of the Agency.
2. The Secretariat shall perform its Guidance Board related tasks exclusively under the instructions of the Chairperson and Deputy Chairperson of the Guidance Board. In relation to the work of the Guidance Board, the Secretariat shall neither seek nor receive instructions from the FRO.
3. The Secretariat shall perform the following duties:
 - a) Providing administrative support, in particular with regard to the preparation of meetings and their follow-up, drafting agendas and meeting minutes, storing documents concerning the Guidance Board, setting up written procedures.
 - b) Providing logistical support, in particular with regard to the preparation of meetings, including the setting up of a video-conferencing system, travel arrangements and the reimbursement of claims.
 - c) Providing support to the Chairperson in the preparation of appraisals and recommendations to the ETIAS Screening Board.
 - d) Providing support to the Chairperson in external communication.
4. All formal communication addressed to the Guidance Board and the Chairperson are to be sent to the Secretariat via its functional email address.

Article 7 **Appraisals and recommendations**

1. The Guidance Board may perform appraisals and issue recommendations and opinions on its own initiative.
2. The members ensure active and constant contribution to the work of the Guidance Board and in particular to the elaboration of documents, Annual Reports, deliberations and decision-making processes.
3. The Guidance Board shall make its opinions, recommendations or appraisals in writing. In exceptional cases the Chairperson may present initial statements to the ETIAS Screening Board orally before submitting final versions in writing.

Article 8 **Access to ETIAS Screening Board meetings and information**

1. As provided for by the third subparagraph of Article 10(2) of Regulation (EU) 2018/1240, the members of the Guidance Board and alternates shall have access to the audits referred to in Article 7(2)(e) of Regulation (EU) 2018/1240.
2. At least one member of the Guidance Board or alternate shall attend the meetings of the ETIAS Screening Board when invited.
3. The members of the Guidance Board and alternates shall have access to the information and files of the ETIAS Screening Board pursuant to Article 10(4) of Regulation (EU) 2018/1240.

Article 9 **Annual Report**

1. The Board shall produce an Annual Report of its activities for each calendar year, which is made public.
2. The Report shall be jointly drafted by the Guidance Board under the coordination of the Chairperson and facilitated by the Secretariat.
3. The Report should be presented to the ETIAS Screening Board.

Article 10
Transparency and Public Access to Documents

1. The Chairperson, supported by the Secretariat, will be responsible for public communication including press releases and contacts with the media. Such communication shall be endorsed by the members of the Guidance Board.
2. The names and the current positions of the members of the Guidance Board shall be published on the Agency's website.
3. Without prejudice to the security rules referred to in Article 92 of Regulation (EU) 2019/1896² (the "Security Rules"), the Guidance Board shall decide whether to publish issued appraisals, opinions and recommendations on the Agency's website, and if they shall be published in full or only as a summary.
4. Access to documents of the Guidance Board and any other related records shall be subject to the principles, conditions and limits laid down in Regulation (EC) No 1049/2001³ as well as to the rules set forth in the applicable decision of the Management Board of the Agency adopting practical arrangements regarding public access to documents held by the Agency.

Article 11
Confidentiality

1. The proceedings and deliberations of the Guidance Board are covered by the obligation of professional secrecy as stipulated in Article 339 of the Treaty on the Functioning of the European Union.
2. Personal data obtained by members of the Guidance Board and alternates during their work must not be shared further and processed in compliance with the applicable data protection rules.
3. Information obtained by members and alternates in the course of their work, other than sensitive data, may be shared on a need-to-know basis only and with due regard to the applicable data protection rules and security rules.
4. These provisions shall also apply to other participants of the Guidance Board meetings.

Article 12
Reimbursement of Expenses

1. The members and alternates shall be entitled to the reimbursement of their travel expenses for the participation in the Guidance Board meetings.
2. The costs and servicing of the Guidance Board meetings and any other related costs, shall be borne by the Agency, reimbursing related expenses according to its reimbursement rules.

Article 13
Revision of the rules of procedure

1. These Rules of Procedure shall be reviewed by the members of the Guidance Board within two years after their adoption.
2. Amendments to these Rules of Procedure may be proposed anytime by any member of the Guidance Board.
3. Amendments shall be adopted by the members of the Guidance Board by a simple majority.

Article 14
Approval and entry into force

1. Pursuant to Article 10(3) of Regulation (EU) 2018/1240, these Rules of Procedure are adopted by the Guidance Board, at its first meeting held on 14.11.2022, by a simple majority.
2. These Rules of Procedure shall enter into force upon adoption.

² Regulation (EU) 2019/1896 of the European Parliament and of the Council of 13 November 2019 on the European Border and Coast Guard and repealing Regulations (EU) No 1052/2013 and (EU) 2016/1624 (OJ L 295, 14.11.2019, p. 1).

³ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145, 31.5.2001, p. 43).