



Baroness Sally Hamwee
Chair, Justice and Home Affairs
Committee
House of Lords

11 January 2022

Dear Chair,

Thank you for your letter of 22 November 2021.

As I set out in my letter of 15 September 2021, the Government supports effective parliamentary scrutiny and will always endeavour to cooperate with Select Committees to facilitate this, but it firmly remains our view that the European Commission is better placed to respond to many of the Committee's recommendations and questions.

It is the responsibility of France to implement the Entry/Exit System as the EU Member State responsible for the EU's external border with the UK, with the support of the European Commission who have overall responsibility for the EES and the EU's ETIAS systems

Nevertheless, I set out below the government's response insofar as we have responsibility for these matters:

- 1. There are several practical problems associated with conducting Entry/Exit checks to which there are currently no solutions. As it stands, continuous EES checks are expected to permanently slow the flow of UK vehicles and passengers to and from the EU.**
- 2. The Government should proactively cooperate with European partners and all relevant parties to address these problems. In doing so, the Government and stakeholders should have regard to specific complications arising from the arrangement of juxtaposed border controls and physical realities of check-point sites including space limitations and live traffic.**

The government is continuing to work with operational stakeholders and is engaging with French authorities and the European Commission to understand forthcoming implementation plans to create an EES solution that is operable, in particular at the juxtaposed border control locations, where, as you have highlighted, the arrangement and order of border control zones presents an additional complication.

The Home Office has built strong working relationships with the French authorities, to ensure that traffic can continue to flow freely through the Port of Dover and Eurotunnel. This will help support the important role these ports play in our trade with Europe, as well as mitigating issues which adversely affect residents and businesses in Kent as well as maintaining the flow of freight and non-freight at the Short Straits.

- 3. Raising awareness of these systems is crucial and will require more than**

updating Travel Advice.

- 4. The Government should engage energetically with domestic stakeholders and work with them to provide clear and consistent messaging to raise public awareness of new border rules. The Government must also ensure that the relevant European institutions fully understand the specific implications of ETIAS and the EES in the UK.**

As I stated in my previous response on this issue, the EU Commission and Member States are responsible for the implementation of the ETIAS and EES, including raising public awareness. The UK Government will support their implementation, but any communications and engagement will complement rather than act as a substitute for comprehensive EU-led guidance and advice.

The Government will continue to engage with the EU institutions and Member States to support effective implementation of the systems for UK nationals.

- 5. We are concerned for those who may not be able to navigate the ETIAS application. What support and advice will the Government provide, particularly for those with accessibility needs? Your letter to the Committee from September 2021 suggests that Government involvement will be limited to updating Travel Advice. Is this still your position?**
- 6. The Government should engage with relevant European authorities to clarify what the manual processing of ETIAS applications will involve, and whether someone denied a travel authorisation will be given the opportunity to re-apply. The Government should also seek specific assurances on how the rights of appellants will be effectively protected.**

The European Commission holds overall responsibility for the successful rollout of the ETIAS, including ensuring that there is appropriate support for those individuals who may require it. This is not unique to British citizens but other third country nationals planning to travel to the Schengen Area.

The foreign travel advice on Gov.UK provides guidance for travellers and signposts to the relevant authorities where policy responsibility rests with others. For example, the USA travel advice page links to the US State Department website for information on the Electronic System for Travel Authorisation visa waiver to enter the USA as a visitor.

- 7. The Government should engage with relevant European authorities in relation to ETIAS security checks. It should secure agreement that it will be notified when a UK citizen is assessed by ETIAS as representing a security risk and obtain guarantees against any attempt by another non-EU government to abuse ETIAS to undermine the rights and liberties of UK citizens.**

It is the EU's prerogative to restrict the travel and entry of those they consider to present a security risk. Similarly, the UK unilaterally prevents the travel of foreign nationals considered a threat to the UK, including some EEA nationals. The Government trusts the EU will conduct its own assessments in a fair, non-discriminatory, and lawful manner.

- 8. We are concerned that UK citizens may be discriminated against by the ETIAS algorithm, including on the basis of protected characteristics.**

9. We urge the Government to engage with relevant European authorities to ensure that robust safeguards are in place to guarantee the fairness and lawfulness of the profiling algorithm that forms part of ETIAS.

The operation of the ETIAS, including the use of any algorithm which may be involved in the processing of applications, is a matter for the European Commission and Schengen States. The Government trusts the EU will conduct its assessments in a fair, non-discriminatory, and lawful manner.

Turning to Recommendation 10, as this was made in the context of our own UK plans for an Electronic Travel Authorisation scheme I assume the reference to “European” below was in error as it will be an *electronic* scheme which applies to all non-visa national visitors not just Europeans.

10. At the outset of the development of the European Travel Authorisation (ETA) system, we recommend that the Government engages with transport operators, infrastructure owners, and police forces on both sides of the Channel to consider practical implications and ways of mitigating any potential disruption.

I can confirm the government is already working with carriers and other stakeholders to ensure a smooth delivery of the UK’s ETA scheme, ensuring that it works for all involved in the process.

To be fully effective, individuals’ permissions will need to be checked by their carrier and confirmed prior to travel. We will support carriers to establish whether individuals have permission to travel by building on the established connections between carriers’ passenger data systems and Home Office border systems. This will minimise any possible disruption at ports. Carriers will rely on electronic messaging from the Home Office, removing the need for them to review physical documentation in most cases.

11. What plans are there, if any, for an algorithm to form part of the ETA? How will you ensure that this is non-discriminatory? What consideration is being given to potential implications on the European Commission’s data adequacy decision in relation to the UK?

As I stated in my previous response, the UK’s ETA scheme will use automation to search our databases and process most applications. However, any, and, all data processing conducted as part of the ETA scheme will be processed according to, and in compliance with, the UK’s Data Protection legislation. The EU have now rightly recognised the UK’s high standards and we have been clear that we will maintain those standards going forwards.

I hope the information is useful to the Committee.

Yours Sincerely,

with our good wishes


Rt Hon Priti Patel MP