



Crew exceptions

Carriers Working Group

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Exemptions for crew

- Article 2(2)(i) of the ETIAS Regulation excepts from its application persons referred to in Article 4(1) of Regulation 539/2001:

“persons or categories of persons referred to in points (a) to (f) of Article 4(1) of Regulation (EC) No 539/2001;”

Exemptions for crew

- Article 4(1) of Regulation 539/2001 was repealed and replaced by Article 6(1) of Regulation (EU) 2018/1806:

(b) civilian air and sea crew members in the performance of their duties;

(c) civilian sea crew members, when they go ashore, who hold a seafarer's identity document issued in accordance with the International Labour Organisation Conventions No 108 of 13 May 1958 or No 185 of 19 June 2003 or the International Maritime Organization Convention on Facilitation of International Maritime Traffic of 9 April 1965;

(d) crew and members of emergency or rescue missions in the event of a disaster or an accident;

(e) civilian crew of ships navigating in international inland waters;

Exemptions for crew

- The exact scope of the exceptions under this provision is determined by Member States: “A Member State may provide for exceptions from the visa requirement”
- Member States have communicated the measures they have taken pursuant to Article 6, to the Commission and these were published at https://ec.europa.eu/home-affairs/pages/document/information-national-derogations-visa-requirement_en
- The exact scope of 2(2)(i) of the ETIAS Regulation is therefore determined by the content of the notified MS measures referred to above.
- Thus, the same exemptions applied now for visas (for VR countries) are to be applied in future for ETIAS (for VE countries)

Web site with measures communicated

- https://ec.europa.eu/home-affairs/pages/document/information-national-derogations-visa-requirement_en includes an Excel file
- Excel file contains a sheet Exemptions Article 6(1)
- As from row 348, 1.2. Visa exemptions for other categories mentioned in Article 6(1) can be found, indicating the way each MS allows the exemptions

Performance of their duties

- In COM view, shared by the MS, sea crew members are never in the performance of their duties when leaving a ship to transit home, or when arriving at an airport to transit to a ship. The duty only starts when a crew member signs on at the ship, and ends when the crew members signs off and leaves the ship. The transit is not part of the duty (which is a significant difference compared to air crew). Sea crew members are only “in the performance of their duties” while on board a ship, and possibly (although MS interpretations vary) during short periods of shore leave in the area of the port and the immediately surrounding area.

Going ashore (1 of 2)

- Many, but not all MS interpret that the exception of “going ashore” provides a legal basis for waiving the visa requirement for qualifying seafarers in transit to/from a ship. Several MS provide such visa waivers but attach strict conditions: usually the visa-free transit between ship and airport (or vice versa) is restricted in time (e.g., 5 days max), and often, only selected nationalities qualify for the visa-free transit for seafarers. Other MS consider that there is no legal basis for waiving the visa requirement for seafarers in transit.
- In all cases sea crew members must hold the necessary ILO documents and documentation proving that they are in transit to take up duty. Often, the shipping company or crewing agency needs to provide name lists 24 hours or more in advance to the border guards (at the airport or port) as a condition for the visa waiver. All this is regulated in national law.

Going ashore (2 of 2)

- There is no legal basis, neither in b) or c), for any sort of visa waiver if the sea crew member stays in the EU for purposes not related to seafaring (e.g., holidays).

Conclusion

- **Do they need an ETIAS?**
- A person falling within the scope of Article 2(2)(i) ETIAS Reg does not need an ETIAS.



Thank you



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