

# THE GLOBAL TRADE LAW JOURNAL

Volume 2, Number 4

July–August 2025

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# What Should Be Done If an Application for UK Electronic Travel Authorisation Is Refused?

Abilio Jaribu and Claire D Nilson\*

*In this article, the authors explain that it is critical to follow up with a well-prepared and prompt Visitor visa application if an application for UK Electronic Travel Authorisation is refused.*

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The UK's Electronic Travel Authorisation (ETA) scheme was introduced to enhance border security and efficiency by conducting security checks prior to arrival in the United Kingdom. Unless a specific exemption applies, the ETA is required for visitors from visa-exempt countries, granting them permission to travel to the United Kingdom for short-term visits of up to six months.

The ETA has been implemented in phases based on nationality since October 2023, with full implementation concluded on 5 March 2025 when the application process was made available to European nationals. An ETA is a mandatory document for European nationals seeking to travel to the United Kingdom on or after 2 April 2025.

Visa-exempt nationals must obtain an ETA before traveling to the United Kingdom; however, it is important to note that an ETA is not a visa. According to the UK Immigration Rules, a person issued an ETA will still be required to request entry upon arrival at their point of entry. The ETA simply confirms that pre-arrival security checks have been completed. Therefore, being approved for an ETA is not a guarantee to entry into the United Kingdom and being refused an ETA does not automatically disqualify a person from traveling to the United Kingdom. Individuals denied an ETA must apply for a Visitor visa if they wish to travel to the United Kingdom.

## The ETA Versus Visitor Visa “Criminality Grounds”

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Section ETA 2.2 of the ETA rules states that an application for an ETA must be refused if the applicant:

1. Has been convicted of a criminal offence in the United Kingdom or overseas for which they have received a custodial sentence of 12 months or more; or
2. Has been convicted of a criminal offence in the United Kingdom or overseas unless more than 12 months have passed since the date of conviction.

Part 9 of the Immigration Rules: Grounds for refusal, Section 9.4.4, states that a visa application for entry clearance as a visitor must be refused if the applicant:

1. Has been convicted of a criminal offence in the United Kingdom or overseas for which they have received a custodial sentence of less than 12 months, unless more than 12 months have passed since the end of the custodial sentence; or
2. Has been convicted of a criminal offence in the United Kingdom or overseas for which they have received a non-custodial sentence or received an out-of-court disposal that is recorded on their criminal record, unless more than 12 months have passed since the date of conviction.

These rules appear to be similar; however, there are a few crucial differences. The key distinction between the ETA and Visitor visa rules is that the ETA rules are considerably stricter when assessing criminality. Subsection (a) of the Immigration Rules permits leniency if more than 12 months have passed since the end of a custodial sentence that does not appear in the corresponding subsection of the ETA rules. Subsection (b) of the Immigration Rules differentiates between custodial and non-custodial sentences, and also gives consideration as to whether the sentence was minor or resulted in an out-of-court disposal, which allows for clarification in a visa application.

Additionally, the ETA application form does not allow much space for an explanation, nor does it allow applicants to provide supporting evidence; and these factors are causing some ETA applications to be rejected. This means that even minor offences can lead to an ETA refusal; but ultimately, this is the main purpose of the ETA: to filter out irregular cases that require closer scrutiny. By contrast, the Visitor visa rules provide a degree of flexibility by allowing individuals with minor convictions to qualify after a



specific time period has passed and to explain their past in more details; and the application process allows a caseworker to assess individual cases on their specific merits.

## **An ETA Refusal Is Not a Travel Ban**

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A refusal of an ETA does not mean that the applicant is banned from travelling to the United Kingdom. Instead, it means they must apply for a Visitor visa, which allows UK Visas and Immigration (UKVI) to conduct a more detailed assessment of the applicant's circumstances, including criminal history. Unlike the ETA process, a Visitor visa application allows the applicant to provide additional context and supporting evidence, such as proof of rehabilitation, mitigating circumstances or explanations regarding the nature of the offence. If the Visitor visa application is also refused, then the individual will be unable to travel to the United Kingdom.

## **Next Steps After an ETA Refusal**

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If an ETA application is refused, the applicant should take the following steps:

- *Review the Refusal Reason.* UKVI does not typically provide detailed explanations for ETA refusals, but applicants should review their submitted information to identify any potential issues. If the refusal is due to criminality grounds, the applicant should assess whether they meet the requirements for a Visitor visa instead.
- *Apply for a Standard Visitor Visa.* Applicants who are refused an ETA should submit a Standard Visitor visa application through the UK government website. This process requires:
  - A valid passport,
  - A biometrics appointment,
  - Details of travel plans,
  - Proof of financial means to support the visit,
  - Evidence addressing any criminal history (e.g., court documents, evidence of rehabilitation, character references).
- *Provide a Detailed Explanation and Supporting Documents.* The key advantage of applying for a Visitor visa is the

ability to provide context. Unlike the ETA process, which does not allow for explanations or additional documentation, the visa application process enables individuals to explain their circumstances in full and demonstrate why they should be permitted to travel.

- *Consider Seeking Legal Advice.* If the refusal was unexpected or the applicant is unsure how to present their case effectively, they may benefit from seeking legal advice from an immigration specialist. A legal representative can help structure the application to address UKVI's concerns.

## In Summary

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- Being refused an ETA does not automatically disqualify a person from traveling to the United Kingdom. Instead, individuals denied an ETA must apply for a Visitor visa if they wish to travel to the United Kingdom.
- Unlike the ETA process, a Visitor visa application allows the applicant to provide additional context and supporting evidence, such as proof of rehabilitation, mitigating circumstances or explanations regarding the nature of a criminal offence. If the Visitor visa application is also refused, then the individual will be unable to travel to the United Kingdom.
- For those who have had an ETA refused, acting promptly and ensuring that their Visitor visa application is well-prepared will be critical to achieving a successful outcome.

## Conclusion

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While an ETA refusal may seem like a significant setback, it does not necessarily prevent a person from travelling to the United Kingdom. The key takeaway is that individuals who face an ETA refusal should not assume they are permanently barred from visiting the United Kingdom. Rather, they may simply need to navigate a more detailed application process to be granted permission to travel.

For those who have had an ETA refused, acting promptly and ensuring that their Visitor visa application is well-prepared will be critical to achieving a successful outcome.

## Note

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