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THE EUROPEAN UNION**

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COMIX 701**

NOTE

from: General Secretariat
to: Council

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**Subject: Proposal for a Council Regulation amending Regulation (EC) No 1683/95
 laying down a uniform format for visas**

**Proposal for a Council Regulation amending Regulation (EC)
No 1030/2002 laying down a uniform format for residence permits for
third-country nationals**

1. The Commission had been requested to prepare these two proposals by the Thessaloniki European Council in June 2003. The main objective of the proposals is to bring forward the final date for implementation of the photograph from 2007 to 2005 and to require Member States' harmonised integration of biometric identifiers into the visa and the residence permit for third-country nationals in order to ensure interoperability.

It is recalled that the Brussels European Council in October 2003 "called upon the JHA Council to reach political agreement by the end of 2003 on the two proposals".

2. The above draft proposals were presented in the Visa Working Party on 11-12 September 2003. The technical experts have examined the texts in three subsequent meetings. At the last meeting on 11-12 November 2003, a broad agreement was reached on the two texts.
 3. The Strategic Committee on Immigration, Frontiers and Asylum examined the proposals on 17/18 November 2003 and a general agreement was reached on the texts with the exception of one delegation maintaining a general reservation on the two proposals. This delegation maintained its reservation at the meeting of Coreper on 20 November 2003.
 4. The texts of the draft proposals are set out in the Annex to this note, with delegations' reservations indicated in footnotes.
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Draft¹⁺²

COUNCIL REGULATION

amending Regulation (EC) 1683/95 laying down a uniform format for visas

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 62 (2) b) iii) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Parliament⁴,

Whereas:

- (1) Council Regulation (EC) No 1683/95 laying down a uniform format for visas⁵ has been amended by Regulation (EC) 334/2002 introducing the integration of a photograph according to high security standards.
- (2) The integration of biometric identifiers is an important step towards the use of new elements, which establish a more reliable link between the holder and the visa format as an important contribution to ensuring that the uniform format for visas is protected against fraudulent use. The specifications set out in the ICAO document No 9303 on machine-readable visas should be taken into account.

¹ A maintained a general reservation on the entire text.
² **DK, F and UK** maintained parliamentary reservations.
³ OJ C , , p. .
⁴ OJ C , , p. .
⁵ OJ 164, 14.7.1995, p. 1.

- (3) The specifications for the enrolment of biometric identifiers in the Visa Information System (VIS) shall be coherent and therefore in line with the specifications laid down for biometric data in this Regulation; they will constitute the basis for implementation in practice.
- (4) It is necessary to make provisions for the establishment of common standards relating to the implementation of the uniform format for visas, in particular common rules on the technical methods and standards to be used for the implementation of such biometric identifiers.
- (5) Regulation (EC) N° 1683/95 should be therefore amended.
- (6) This Regulation reflects the technical standards at the time of the adoption. New technical developments will be taken into account in future amendments of this Regulation.
- (7) With regard to the personal data to be processed in the context of the uniform format for visa, Directive 95/46/EC of the European Parliament and of the Council of 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data¹ applies. It must be ensured that no further information shall be stored on the uniform format for visa unless provided for in the regulation, its annex or unless it is mentioned in the relevant travel document.
- (8) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.

¹ OJ L 281, 23.11.1995, p. 31.

- (9) It is appropriate to align the competence of the "Committee created by article 6 of Regulation 1683/95 laying down a uniform format for visas" in relation to visas to those related to the residence permit.
- (10) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement¹.
- (11) This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(1) of the Act of Accession.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1683/95 is hereby amended as follows:

- (1) Article 2 (1), the following points c) and d) are added

"c) technical specifications for the storage medium of the biometric information and its securisation;

d) requirements for the quality and common standards of the facial image and the fingerprints."

¹ OJ L 176, 10.7.1999, p. 31.

(2) The following Article 2a is inserted:

"Article 2a

Other measures necessary for the implementation of this Regulation shall be adopted in accordance with the regulatory procedures referred to in Article 6 (2)".

(3) Article 4 (2) is replaced by the following :

"No information in machine-readable form shall be included in the uniform format for visa, unless provided for in this Regulation, its Annex or unless it is mentioned in the relevant travel document. "

(4) The following Article 4a is inserted:

"Article 4a

A storage medium shall be part of the uniform format for visas. This storage medium shall be highly secured and shall contain a facial image and two fingerprints taken from flat fingers in interoperable formats"

Detailed rules for the enrolment and storage of fingerprints shall be laid down in the Common Consular Instructions (CCI). They may provide for exceptions therein."

(5) The third subparagraph of Article 8 shall be replaced by the following:

"The integration of the photograph provided for in point 2a of the Annex shall be implemented at the latest on 3 June 2005. The storage of the facial image as primary biometric identifier shall be implemented at the latest two years, and the storage of the two fingerprints at the latest three years after the adoption of the respective technical measures provided in Article 2 (1) c) and d)."

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the Council

The President

COUNCIL REGULATION

amending Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third-country nationals

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 63 (3) a) thereof,

Having regard to the proposal from the Commission³,

Having regard to the opinion of the European Parliament⁴,

Whereas:

- (1) The Amsterdam Treaty aims establishing progressively an area of freedom, security and justice and confers a shared right of initiative to the Commission in order to take the relevant measures on a harmonised immigration policy.
- (2) It is essential that the uniform format for residence permits should contain all the necessary information and meet very high technical standards, in particular as regards safeguards against counterfeiting and falsification; this will contribute to the objective of preventing and fighting against illegal immigration and illegal residence. It must also be suited to use by all the Member States.

¹ A maintained a general reservation on the entire text.

² F, UK and NL maintained parliamentary reservations.

³ OJ C , , p. .

⁴ OJ C , , p. .

- (3) The integration of biometric identifiers is an important step towards the use of new elements, which establish a more reliable link between the holder and the residence permit as an important contribution to ensuring that it is protected against fraudulent use. The specifications set out in the ICAO document No 9303 on machine-readable visas should be taken into account.
- (4) This Regulation only lays down such specifications as are not secret; these specifications need to be supplemented by further specifications which are to remain secret in order to prevent counterfeiting and falsifications and which may not include personal data or references to such data. Powers to adopt such supplementary specifications should be conferred to the Commission, who shall be assisted by the Committee established by Article 6 of Council Regulation (EC) n°1683/95 of 29 May 1995 laying down a uniform format for visas¹.
- (5) This Regulation reflects the technical standards at the time of the adoption. New technical developments will be taken into account in future amendments of this Regulation.
- (6) With regard to the personal data to be processed in the context of the uniform format for residence permits, Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data² applies. It must be ensured that no further information shall be stored on the uniform format for residence permits unless provided for in the regulation, its annex or unless it is mentioned in the relevant travel document.

¹ OJ L 164, 14.7.1995, p. 1.

² OJ L 281, 23.11.1995, p. 31.

- (7) In accordance with the principle of proportionality, it is necessary and appropriate for the achievement of the basic objective of introducing interoperable biometric identifiers to lay down rules for all Member States implementing the Schengen Convention. This Regulation does not go beyond what is necessary in order to achieve the objectives pursued in accordance with the third paragraph of Article 5 of the Treaty.
- (8) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not taking part in the adoption of this Regulation, and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis* under the provisions of Title IV of Part Three of the Treaty establishing the European Community, Denmark shall, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation, whether it will implement it in its national law.
- (9) As regards Iceland and Norway, this Regulation constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* which fall within the area referred to in Article 1, point B of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of that Agreement^{1, 2}
- (10) This Regulation constitutes an act building on the Schengen *acquis* or otherwise related to it within the meaning of Article 3(1) of the Act of Accession,

¹ OJ L 176, 10.7.1999, p. 31.

HAS ADOPTED THIS REGULATION:

Article 1

Regulation (EC) No 1030/2002 is hereby amended as follows:

(1) Article 2 (1), the following points d) and e) are added:

"d) technical specifications for the storage medium of the biometric information and its securisation;

e) requirements for the quality and common standards of the facial image and the fingerprints."

(2) Article 4, second subparagraph is replaced by the following:

"No information on machine-readable form shall be included in the residence permit, unless provided for in this Regulation, its Annex or unless it is mentioned in the relevant travel document."

(3) The following Article 4a is inserted:

"Article 4a

A storage medium shall be part of the uniform format for residence permits. This storage medium shall be highly secured and shall contain a facial image and two fingerprints taken, at the choice of each Member State, from flat or rolled fingers in interoperable formats."

(4) The third subparagraph of Article 9 is replaced by the following:

"The integration of the photograph provided for in point 14 of the Annex shall be implemented at the latest on 31 December 2005. The storage of the facial image as primary biometric identifier shall be implemented at the latest two years, and the storage of the two fingerprint images at the latest three years after the adoption of the respective technical measures provided for in Article 2 (1) d) and e)."

Article 2

This Regulation shall enter into force on the 20th day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in the Member States in accordance with the Treaty establishing the European Community.

Done at Brussels,

For the Council
The President