

Public Hearing

Biometrics, privacy and security: Striking the right balance

Tuesday 2 March 9.00 - 12.30

European Parliament, PHS Building, rue Wiertz, 1047 Brussels
Meeting room 4B-001

Part I. The future use of biometrics - the larger picture

- 09.00 - 9.10 Welcome by **Graham Watson**, MEP, President of the European Liberal Democrat Group (confirmed) and **Ole B. Sørensen**, MEP, rapporteur on the report on introduction of biometrics identifiers in visas and residence permits of third country nationals
- 09.10 - 9.30 Intervention by **Commissioner Vitorino** (confirmed) on the Commission perspective on the use of biometrics in general and with respect to the current draft proposal, their connection with the future Visa Information System (VIS), the future EU passports, the Schengen Information System II (SIS II) and VIS
- 09.30 - 9.40 Intervention by **Marc J. Meznar** (confirmed), US Mission, on biometric requirements for travel to the US
- 09.40 - 9.50 Intervention by the **Chairman of the Article 29 Working Party** on Data Protection (to be confirmed)
- 09.50 - 10.00 Intervention by **Martin Walsh** (confirmed), General Counsel for the company Daon and Chairman of the European Biometrics Forum
- 10.00 - 10.10 Intervention by **Tony Bunyan** (confirmed), Statewatch
- 10.10 - 10.40 Debate

Part II. Biometrics on visa and residence permits

- 10.40 - 10.50 Presentation by **Ole B. Sørensen**, MEP, of his draft report on the introduction of biometrics identifiers in visas and residence permits of third country nationals
- 10.50 - 11.00 Presentation by a **member of the Article 29 Working Party** on Data Protection (to be confirmed)
- 11.00 - 11.20 Interventions by shadow rapporteurs
- 11.20 - 11.45 Comments by those present and general debate

Part III. Case study Eurodac

11.45 - 12.00 Presentation by **Frank Paul** (confirmed), Head of Unit "Large-scale IT systems" of the Directorate-General Justice and Home Affairs, European Commission

12.00 - 12.10 Intervention by the European Data Protection Supervisor **Peter Hustinx** (confirmed)

12.10 - 12.20 Debate

12.20 - 12.30 Closing remarks by **Ole B. Sørensen**, MEP

PURPOSE

The purpose of this public Hearing on biometrics is to bring together all interested parties on biometrics. The focus will of course be determined by the current legislative agenda of the EU: The starting point is the proposal of the Commission to include biometric identifiers into visa and residence permits currently under discussion in the European Parliament.¹ The idea is, however, as well to discuss the wider picture of the use of biometrics, for example in the new second generation of the Schengen Information System and the Visa Information System² as well as in EU passports.³

Besides encouraging an urgently needed public debate, the hearing should also serve to advice Members on the current proposals under examination. To this end a draft of the report of Mr. Sørensen, rapporteur, will be made available to speakers ahead of the meeting in order to allow for comments on the draft.

Part I. The future use of biometrics - the larger picture

The catalyst for biometrics in the US was clearly the terrorist attacks on 11 September 2001. Today visitors to the US have their fingerprints taken, countries that want to continue to be included in the visa waiver programme need machine readable passports including biometrics according to ICAO standards as of October this year and many other biometric systems are discussed. The EU as well has started to look seriously into the use of biometrics. Proposals that would have been unthinkable a few years ago are being made today and agreed by European Councils within weeks. The US embraces biometrics but which way does the EU want to go ?

There are still very many unanswered questions about the use of biometrics in general: Do they work well enough? What are the error rates? Are these rates politically acceptable? Are biometrics not about providing the appearance of security instead of security? Do biometrics help in any way in the fight against terrorism?⁴ Are biometrics not too costly? Do the benefits outweigh the costs? Where will we store the data? How do we protect it? Where will we use biometrics?

¹ Proposal for a Council Regulation amending Regulation (EC) 1683/95 laying down a uniform format for visas and Proposal for a Council Regulation amending Regulation (EC) 1030/2002 laying down a uniform format for residence permits for third-country nationals COM(2003) 558

² Communication from the Commission on the Development of the Schengen Information System II and possible synergies with a future Visa Information System (VIS) (COM(2003)771)

³ Proposal of the Commission expected for early 2004.

⁴ The terrorists of 9/11 entered the US with valid visa and their own passports. Currently US VISIT encompasses 115 airports and 14 cruise ship ports.

These questions have to be seen in light of the use of biometrics in passports of EU citizens, in the Schengen Information System II and in the Visa Information System.⁵

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Part II. Biometrics on visa and residence permits

A first analysis of the Commission proposals of the rapporteur is set out in a working document of 14 November 2003 presented on 25 November 2003 to the Committee on Citizens' Freedoms and Rights, Justice and Home Affairs (PE 329.934). In the concluding chapter of this working document a series of questions were raised to which answers would need to be found in order to evaluate the Commission's proposals. So far most of these questions could not be answered in a comprehensive way.

- Are there not many additional security measures that could be applied before using biometric data to be stored on a chip on the visa /residence permit?
- Is it not a very long way between the visa of today, which in some Member States is still filled in by hand, to the introduction of a visa with two biometric identifiers also stored on a chip and the significant investments needed to make such a system work?
- How many visas are actually issued and especially how many of them are counterfeited, e.g. what is the magnitude of the problem the proposals try to solve?
- If one agrees that additional security measures are needed (in addition to printing the photograph on the document, which is already foreseen) would it not be sufficient to have one biometric identifier, i.e. the photograph to be stored on a chip? Would it not be an option to leave out the fingerprints or to leave them optional as recommended by ICAO?

⁵ "However, with the use of biometrics at such an unprecedented scale, the system [VIS] will enter a new and largely unknown dimension." (COM (2003) 771, p.24)

- Are the proposed measures not too expensive to be proportional? Is it not irresponsible to make such a big step in the direction of biometrics if the data protection authorities "are currently under-resourced for their wide range of tasks" and "the supervision of the processing of biometrics will increase their workload" ?⁶
- If it is decided to adopt the proposals, what measures do the Commission and Council envisage to remedy the problem of the "lack of resources" on behalf of the supervisory authorities, which "may affect independence", and "if [...] confirmed [...] are reasons for serious concern" ?⁷
- With the development of the Visa Information System including possible synergies with the Schengen Information System under discussion - and thereby the issue of central storage of the biometric data as well as their secondary use already on the agenda - would it not be better to follow a more prudent approach? In this context the rapporteur would like to know, inter alia, how currently (and in the future?) the data is stored, what data is stored, for how long the data is stored, who has access to the data, for what purpose can and will the data be used?
- With the proposal for biometric data on EU passports foreseen for January 2004 (and the identity card of EU citizens to follow), which will probably be along the lines of the proposal under discussion, would it not be better to limit the use of biometrics to the photograph stored on a chip as requested by the US for the countries participating in the visa waiver programme and as recommended by ICAO ?

A preliminary conclusion could be: The Commission proposed a solution to a largely unknown problem the costs of which are unknown as well but likely to be very high. The reasons for advocating the use of biometrics are to be found more in philosophy than in reality. The idea is to include all the data collected in a second step into the still to be explained and developed VIS. Many data protection issues are on the table but not thoroughly discussed yet.

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Part III. Case study Eurodac

EURODAC stores fingerprints of persons applying for refugee status in the EU. These fingerprints are being compared with fingerprint data transmitted by other participating States and already stored in the central database. If EURODAC reveals that the fingerprints have already been recorded, the asylum seeker will be sent back to the country where his/her fingerprints were originally recorded. In this way EURODAC helps to implement the Dublin convention on the criteria and mechanisms for determining which State is responsible for which asylum application.

⁶ COM (2003) 558, p.6

⁷ COM (2003) 558, p.7

EURODAC became operational on 15 January 2003. Article 24.4 of COUNCIL REGULATION (EC) No 2725/2000 of 11 December 2000 concerning the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention states: *4. One year after Eurodac starts operations, the Commission shall produce an evaluation report on the Central Unit, focusing on the level of demand compared with expectation and on operational and management issues in the light of experience, with a view to identifying possible short-term improvements to operational practice.*

11.45 - 12.00 Presentation by **Frank Paul** (confirmed), Head of Unit "Large-scale IT systems" of the Directorate-General Justice and Home Affairs, European Commission

12.00 - 12.10 Intervention by the European Data Protection Supervisor **Peter Hustinx** (confirmed)

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12.20 - 12.30 Closing remarks by **Ole B. Sørensen**, MEP

The practicalities

The hearing is a public event. Persons without access to the European Parliament wishing to attend the hearing have to register at the latest on 24 February with the LIBE Secretariat (send e-mail to Dg2-LIBE@europarl.eu.int) in order to obtain an entry pass into the Parliament building

There will be translation in eight languages (EN, FR, IT, ES, NL, DA, FI, SV)

Invited are interested Members, assistants and staff as well as relevant NGOs.

Media should contact Katrin Huber in the LIBE Secretariat (Tel: 02/284.4692) or Anders Rasmussen in the ELDR Secretariat (Tel. 02/284.1493)