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**VISA 44
COMIX 127**

INTRODUCTORY NOTE

from: General Secretariat
to: Mixed Committee at Ministerial/Council level

No. prev. doc.: 6205/05 VISA 39 COMIX 101

Subject: Council conclusions on the inclusion of biometric data in visas and residence permits

I. INTRODUCTION

1. At its meeting on 27 November 2003, the JHA Council agreed on a general approach to the amendment of Council Regulations Nos 1683/95 and 1030/2002 incorporating biometric identifiers into the uniform formats for visas and residence permits. The proposals provided for the mandatory storage of digital photographs of the face and fingerprints within two and three years respectively of their adoption. A contactless chip should serve as the storage medium.

In its Declaration on terrorism, the European Council asked the Council to adopt the above two proposals by the end of 2004 and the Commission to adopt the technical specifications by the same deadline.

2. On 16 November 2004, the Visa Working Party examined the report by the Article 6 Technical Committee. That report established that technical problems had arisen with the storage of biometric identifiers in visas. The storage medium incorporated in the visa could lead to what are known as "collision problems" when several visas had to be affixed to the same travel document. The same problem could occur with the storage medium in residence permits, if the latter were issued in the form of a sticker affixed to the passport. No such technical problems arise when residence permits are issued in the form of a separate card.

The Visa Working Party concluded that, on account of these problems, it would not be possible to adopt the technical specifications of the draft Regulation on visas by the deadline set by the European Council. On 2 December 2004, the JHA Council took note of the fact that an appropriate solution to these technical questions should be found during the first three months of 2005.

3. At the SCIFA meeting on 19 January 2005, the Presidency concluded that no delegation would be opposed to possible earlier activation of the biometric features in the development of the VIS in 2006, subject to budgetary consequences at Member State level and without prejudice to the further solution of incorporating biometric identifiers into the uniform format for visas, which was felt to require a further period of consideration to enable the ongoing technical studies to be completed.
4. As regards the residence permit, the Presidency noted, at the same meeting, that delegations generally favoured the second option proposed, i.e. issue of residence permits in the form of a separate card, on the understanding that the possible problem concerning the timeframe for application would have to be examined.

5. On 8 February 2005 the SCIFA reached a broad consensus on the attached draft conclusions. This consensus was confirmed in the Mixed Committee at Senior Officials level on 16 February 2005, and only the German delegation maintained a reservation on the text as a whole. EE circulated the unilateral statement contained in Annex II to this note.

 6. The Mixed Committee at Ministerial/Council level is therefore invited to confirm this agreement with a view to adopting the attached draft conclusions.
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ANNEX I

Draft Council conclusions

Having regard to the technical problems related to the storage of biometric identifiers in visas,

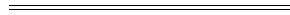
Having regard to the need to modify the Commission proposals relating to the amendment of Council Regulations Nos 1683/95 and 1030/2002 incorporating biometric identifiers into the uniform formats for visas and residence permits in order to take account of these problems,

Having regard to the very short deadline (1 March 2005) set by the Council in December 2004 for finding an appropriate solution to these problems,

The Council:

- invites the Commission to make every effort, including with respect to budgetary programming, to bring the activation of biometric identifiers in the development of the central part of the VIS forward to 2006;
- acknowledges that as regards the incorporation of biometric identifiers into the uniform format for visas, whether in the form of a chip in the visa sticker or in the form of a separate card, a further period of consideration is required to enable the ongoing technical studies to be completed;
- will meet in April 2005 to assess, on the basis of the ongoing studies, whether a further solution complementing the introduction of biometric identifiers in the VIS is useful/necessary for practical reasons relating to more efficient implementation of the Schengen acquis and/or for reasons relating to the forgery-proofing of visas;
- notes that the VIS implementation phase, including its biometric aspects, requires a significant budgetary and technical finalisation effort at Member State level, in particular so that the phase of equipping consular posts and border posts can be launched as soon as possible;

- invites the Commission to amend its proposal for a Council Regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals to take account of the consensus reached by the Council on incorporating biometric identifiers into residence permits in the form of a separate card within a period of 24 months, and to take account of the Council's desire to discontinue the use of residence permits in the form of stickers.



ANNEX II

Unilateral Estonian Statement

Integration of biometric identifiers into the uniform format for visa stickers and residence permits for third country nationals

Estonia declares, with regard to paragraph 5 of the Council conclusions, that while opting for only stand alone residence documents (separate card) and appropriate storage medium(s) when amending its proposal concerning Council Regulation amending Regulation (EC) No 1030/2003, the Commission should take the necessary steps to ensure that the current national developments with regard to authentication, certification, digital signature and e-Government services for third country nationals living legally on the territory of a Member State shall be taken into account.

In order to enable greater participation in public life, including more open and accessible Government, Estonia deems necessary to maintain and further develop the public electronic services for third country nationals linked to its electronic functionalities of the identity/residence card, which would be developed as a single uniform format card following the adoption of the amendments to the Council Regulation amending Regulation (EC) No 1030/2003. Moreover, when compelled to abandon the principles the current Estonian public e-services are based upon, Estonia will have to limit considerably the possibilities of all the resident third country nationals to use the government e-services on an equal footing with the citizens of Estonia.
