



Council of the
European Union

Brussels, 22 February 2019
(OR. en)

6412/19

**Interinstitutional File:
2018/0104(COD)**

LIMITE

**JAI 165
FRONT 61
VISA 36
FAUXDOC 16
CODEC 410
IA 74
FREMP 27**

'I' ITEM NOTE

From: Presidency
To: Permanent Representatives Committee

Subject: Proposal for a Regulation of the European Parliament and of the Council on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement
- Confirmation of the final compromise text with a view to agreement

1. On 17 April 2018, the Commission submitted a proposal for a Regulation on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement¹. The aim of the proposal is to improve the security of identity cards which allow to exit and to enter another Member State, residence documents issued to EU citizens and residence cards issued to non-EU family members of EU citizens. This should facilitate the exercise of free movement and improve security within the EU and at its borders, in particular by limiting the scope for document fraud and identity theft.

¹ 8175/18.

2. The examination of the proposal commenced in May 2018 under the Bulgarian Presidency. After a period of intense work in the Council preparatory bodies under the Austrian Presidency, on 14 November 2018, Coreper adopted a mandate to start negotiations with the European Parliament².
3. The Committee on Civil Liberties, Justice and Home Affairs (LIBE) of the European Parliament adopted its report on 3 December 2018.
4. Given the limited time available to co-legislators to adopt the file before the end of this parliamentary term, the Council and the EP engaged in intense negotiations. In addition to extensive work at the technical level, three trilogues were held on 24 January, 14 February, and finally on 19 February 2019. At the last trilogue an agreement was reached on a compromise text, which is set out in the Annex.
5. The Presidency would like to point out that the compromise text maintains all the key elements of the Council negotiating mandate, most notably:
 - the compulsory inclusion of fingerprints on ID cards;
 - the 24-month date of application;
 - the 10 year phase-out period for non-compliant ID cards, coupled with a number of derogations for cards which do not meet the minimum security standards set out in ICAO specifications, which do not include a functional machine-readable zone, or which were issued to persons aged 70 and above;
 - the ability of Member States to set up and maintain biometric databases in line with national legislation.

² 14360/18.

6. At the same time, a number of EP amendments, about which delegations were particularly concerned, were withdrawn by the Parliament as a result of the negotiations. In particular, the amendment regarding the recognition of provisional documents as valid travel and identification documents, as well as the one recognising residence cards of family members of Union citizens as valid travel documents have not been included in the text. Moreover, the request of the EP to visually harmonise the layout of ID cards and introduce a uniform colour (blue), was also not taken on board.
7. In light of the above, the Presidency invites the Permanent Representatives Committee to:
 - a) approve the final compromise text, as set out in the Annex
 - b) confirm that the Presidency can indicate to the European Parliament that, should the European Parliament adopt at first reading its position regarding the Regulation as set out in the Annex, subject to revision of the text by the lawyer-linguists of both institutions, the Council would approve the European Parliament's position and the act shall be adopted in the wording which corresponds to the European Parliament's position.

PE-CONS No/19 - 2018/0104(COD)

REGULATION (EU) 2019/...
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of ...

on strengthening the security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members exercising their right of free movement

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 21(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee³,

After the consultation of the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure,

³ OJ C 367, 10.10.2018, p. 78.

Whereas:

- (1) The EU Treaties resolved to facilitate the free movement of persons while ensuring the safety and security of their peoples, by establishing an area of freedom, security and justice, in accordance with the provisions of the Treaty on the Functioning of the European Union (TFEU).
- (2) Citizenship of the Union confers on every citizen of the Union the right of free movement, subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council⁴ gives effect to that right. Article 45 of the Charter of Fundamental Rights of the European Union (“the Charter”) also provides for freedom of movement and residence. Freedom of movement entails the right to exit and enter Member States with a valid identity card or passport.
- (3) Pursuant to Article 4 of Directive 2004/38/EC, Member States are to issue and renew identity cards or passports to their nationals in accordance with national laws. Furthermore, Article 8 of Directive 2004/38/EC provides that they may require Union citizens and their family members to register with the relevant authorities. Member States are required to issue registration certificates to Union citizens under the conditions set out therein. Member States are also required to issue residence cards to family members who are not nationals of a Member State and, on application, to issue documents certifying permanent residence and permanent residence cards.

⁴ Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States (OJ L 158, 30.4.2004, p. 77).

- (4) Article 35 of Directive 2004/38/EC provides that Member States may adopt the necessary measures to refuse, terminate or withdraw any right conferred by this Directive in the case of abuse of rights or fraud. Document forgery or false presentation of a material fact concerning the conditions attached to the right of residence have been identified as typical cases of fraud under that Directive.
- (5) *Considerable differences exist between the security levels of national identity cards issued by Member States and residence permits for Union nationals residing in another Member State and their family members, which increases the risk of falsification and document fraud and gives rise to practical difficulties for citizens when they wish to exercise their right of free movement. European Document Fraud Risk Analysis Network Statistics show that incidents of fraudulent identity cards have increased over time.*
- (6) *In its Communication of 14 September 2016 entitled “Enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders”, the Commission stressed the crucial importance of secure travel and identity documents where necessary to establish beyond doubt a person’s identity, and announced that it would be presenting an action plan to tackle travel document fraud. According to that communication, an improved approach is to rely on robust systems to prevent abuses and the threats to internal security arising from failings in document security, in particular related to terrorism and cross-border crime.*
- (7) *At least three quarters of fraudulent documents detected at the external borders, but also in the area without controls at internal borders, purport to have been issued by Member States and the Schengen associated countries. Less secure national identity cards issued by Member States are the most frequently detected false documents used for intra-Schengen travel⁵.*

⁵ *COM(2016)790 final, Action plan to strengthen the European response to travel document fraud.*

- (8) *In order to deter identity fraud, Member States should ensure that the falsification and counterfeiting of identification documents and the use of such falsified or counterfeit documents are adequately sanctioned by their national law.*
- (9) Commission Action Plan of December 2016 on document security addressed the risk from fraudulent identity cards and residence documents⁶, and Commission's 2017 EU Citizenship Report of 24 January 2017 committed to analysing policy options to improve the security of identity cards and residence documents.
- (10) *Issuing authentic and secure identity cards requires a reliable identity registration process and secure documents to support the application. The Commission, the Member States and the relevant Union agencies should continue to work⁷ together to make source documents less vulnerable to fraud, given the increased use of false source documents.*
- (11) This Regulation does not require Member States to introduce identity cards or residence documents where they are not provided for under national law, nor does it affect the competence of the Member States to issue, under national law, other residence documents outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.
- (12) *This Regulation does not affect the possibility of Member States to accept, in a non-discriminatory manner, other documents which are not travel documents such as driving licences for identification purposes.*
- (13) *Identification documents issued to citizens whose free movement rights have been restricted in accordance with Union or national law, and which expressly indicate that they cannot be used as travel documents should not be considered as falling within the scope of this Regulation.*

⁶ *COM(2016)790 final, Action plan to strengthen the European response to travel document fraud*

⁷ *COM(2016)790 final, Action plan to strengthen the European response to travel document fraud and the subsequent reports on the implementation of the Action plan.*

- (14) *Travel documents compliant with International Civil Aviation Organisation (ICAO) Document 9303, part 5 (seventh edition), which do not serve identification purposes in the issuing Member States, such as the passport card issued by Ireland, should not be considered as falling within the scope of this Regulation.*
- (15) This Regulation does not affect the use of identity cards and residence documents with eID function by Member States for other purposes, nor does it affect the rules laid down in Regulation (EU) No 910/2014 of the European Parliament and of the Council⁸, which provides for Union-wide mutual recognition of electronic identifications in access to public services and helps citizens moving to another Member State, by requiring electronic identification means to be recognised in another Member State. Improved identity cards should ensure easier identification and contribute to better access to services.
- (16) Proper verification of identity cards and residence documents requires that Member States use the correct title for each kind of document. In order to facilitate checking of the documents in other Member States, the document title should also appear in at least one other official language of the institutions of the Union. *Where Member States already use, for identity cards, well-established designations other than ‘identity card’, they should be able to continue to do so in their official language or languages. However, no new designations other than ‘identity card’ should be introduced in the future.*
- (17) Security features are necessary to verify if a document is authentic and to establish the identity of a person. The establishment of minimum security standards and the integration of biometric data in identity cards and in residence cards of family members who are not nationals of a Member State are important steps in rendering their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their rights of free movement.

⁸ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73).

- (18) *The storage of a facial image and two fingerprints (hereinafter referred to as “biometric data”) on identity documents, as already provided for in respect of biometric passports and residence permits for third-country nationals, represents an appropriate combination of reliable identification and authentication with a reduced risk of fraud, for the purpose of strengthening the security of identity documents.*
- (19) *As a general practice, Member States should, for the verification of the authenticity of the document and the identity of the holder, primarily verify the facial image and, where necessary to confirm without doubt the authenticity of the document and the identity of the holder, Member States should also verify the fingerprints.*
- (20) *Members States should ensure that in cases where a verification of biometric data does not confirm the authenticity of the document or the identity of its holder, a compulsory manual check is carried out by qualified staff.*
- (21) *This Regulation does not provide a legal basis for setting up or maintaining databases at national level for storage of biometric data in Member States, which is a matter of national law that needs to comply with Union law regarding data protection. The Regulation also does not provide a legal basis for setting up or maintaining a centralised database at Union level.*
- (22) *This Regulation requires biometric data to be collected and stored in the storage medium of identity cards and residence documents for the purposes of verifying the authenticity of the document and the identity of the holder. Such a verification may only take place by duly authorised staff when the document is required to be produced by law. Moreover, biometric identifiers stored for the purpose of personalisation of identity cards or residence documents should be kept in a highly secure manner and only until the date of collection of the document and in any case no longer than 90 days from the date of issue. After this period, these biometric identifiers shall be immediately erased or destroyed. This is without prejudice to any other processing of these data in accordance with Union and national law regarding data protection.*

- (23) The specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents which ensure global interoperability including for machine readability and using visual inspection should be taken into account for the purpose of this Regulation.
- (24) *Member States should be able to decide whether to include a person's gender on a document. Where a Member State includes a person's gender on a document, the specifications of ICAO Document 9303 (seventh edition, 2015) 'F', 'M' or 'X'/'<' should be used for such information.*
- (25) *In order to ensure that future security standards and technical specifications adopted pursuant to Council Regulation (EC) No 1030/2002⁹ laying down a uniform format for residence permits for third country nationals as last amended by Regulation (EU) 2017/1954 are duly taken into account, where appropriate, for identity cards, residence cards and permanent residence cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹⁰. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95¹¹. Where necessary, the implementing acts adopted may remain secret in order to prevent the risk of counterfeiting and falsifications.*

⁹ Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1).

¹⁰ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

¹¹ Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas (OJ L 164, 14.7.1995, p. 1).

- (26) *Member States should ensure that appropriate and effective procedures for the collection of biometric identifiers are in place, which comply with the rights and principles defined in the Charter, the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe and the United Nations Convention on the Rights of the Child. Member States should ensure that the best interest of the child is a primary consideration throughout the collection procedure. To this end, qualified staff should receive appropriate training on child-friendly practices for the collecting of biometric identifiers.*
- (27) *Where difficulties are encountered in the collection of biometric identifiers, Member States should ensure that appropriate procedures are in place to guarantee the dignity of the person concerned. Therefore, specific considerations relating to gender, and to the specific needs of children and of vulnerable persons should be taken into account.*
- (28) The introduction of minimum security and format standards for identity cards should allow Member States to rely on the authenticity of those documents when Union citizens exercise their right of free movement. *The introduction of reinforced security standards provides sufficient guarantees to public authorities and private entities to rely on the authenticity of identity cards when used by citizens for identification purposes.*
- (29) *A distinguishing sign in the form of the two-letter country code of the Member State issuing the document, encircled by twelve yellow stars and printed in negative in a blue rectangle, facilitates the visual inspection of the document, in particular when the holder is exercising the right of free movement.*
- (30) While the possibility to provide for additional national features is maintained, it should be ensured that those features do not diminish the efficiency of the common security features or negatively affect the cross-border *compatibility* of the identity cards, such as the possibility that the identity cards can be read by machines used by Member States other than those of issue.

- (31) *The introduction of security standards in identity cards and in residence cards of family members who are not nationals of a Member State should not result in a disproportionate increase in fees for Union citizens or third-country nationals. Member States should take this principle into consideration when carrying out calls for tender.*
- (32) *Member States should take all necessary steps to ensure that biometric data matches the person to whom an identity card is issued. To this end, Member States could consider collecting biometric identifiers, especially the facial image, by means of live enrolment by the national authorities issuing identity cards.*
- (33) *Member States should exchange with each other such information as is necessary to access, authenticate and verify the information contained on the secure storage medium. The formats used for the secure storage medium should be interoperable, including in respect of automated border crossing points.*
- (34) *Article 5(4) of Directive 2004/38/EC addresses the situation where Union citizens or family members of Union citizens who are not nationals of a Member State not having the necessary travel documents are to be given every reasonable opportunity to prove by other means that they are covered by the right of free movement. Such means can include identification documents used on a provisional basis and residence cards issued to family members of Union citizens.*
- (35) The Regulation *respects* the obligations set *out in the Charter and* in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union. *Therefore, Member States are encouraged to work with the Commission to integrate* additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons. *Member States are to explore solutions, such as mobile registration devices, for the issuance of identity cards to persons incapable of visiting the authorities responsible for issuing identity cards.*

- (36) Residence documents issued to citizens of the Union should include certain information to ensure that they are identified as such in all Member States. This should facilitate the recognition of the Union mobile citizen's use of the right of free movement and of the rights inherent to this use, but harmonisation should not go beyond what is appropriate to address the weaknesses of current documents. ***Member States are free to select the format in which these documents are issued and could issue them in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.***
- (37) As regards residence documents issued to family members who are not nationals of a Member State, it is appropriate to make use of the same format and security features as provided for in Regulation (EC) No 1030/2002 which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954. In addition to ***proving*** the right of residence, those documents also exempt their holders who are otherwise subject to a visa obligation, from the need to obtain a visa when accompanying or joining the Union citizen within the Union territory.
- (38) Article 10 of Directive 2004/38/EC provides that documents issued to family members who are not nationals of a Member State are to be called "Residence card of a family member of a Union citizen". ***In order to be easily identified as such a residence card of a family member of a Union citizen should bear a standardised title and code.***
- (39) Taking into account both the security risk and the costs incurred by Member States, identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out. In general, a phasing-out period of ***ten years for identity cards and five years for residence cards*** should be sufficient to strike a balance between the frequency with which documents are usually replaced and the need to fill the existing security gap within the Union. However, for cards which do not have important ***security*** features, ***or are not machine readable***, a shorter phasing-out period is necessary on security grounds.

- (40) Regulation (EU) 2016/679 of the European Parliament and of the Council¹² applies with regard to the personal data to be processed in the context of the application of this Regulation. It is necessary to further specify safeguards applicable to the processed personal data *and in particular to sensitive data such as biometric identifiers*. Data subjects should be made well aware of the existence in their documents of the storage medium containing their biometric data including its contactless accessibility as well as of all instances where the data contained in their identity cards and residence documents are used. In any case, data subjects should have access to personal data processed in their identity cards and residence documents and have them rectified *by way of issuance of a new document*. *The storage medium should be highly secure and protect personal data stored on it from unauthorised access.*
- (41) *Member States should be responsible for the proper processing of biometric data, from collection to integration of the data on the highly secure storage medium, in accordance with Regulation (EU) 2016/679.*
- (42) *Special consideration is to be given by Member States when cooperating with an external service provider. Such a cooperation should not exclude any liability arising under Union or national law of the Member State for breaches of obligations with regard to personal data.*

¹² Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

- (43) It is necessary to specify in this Regulation the basis for the collection and storage of data on the storage medium of identity cards and residence documents. In accordance with Union or national law *and respecting the principles of necessity and proportionality*, Member States should be able to store on a storage medium for electronic services or other purposes relating to the identity card or residence document. The processing of such data including their collection and the purposes for which they can be used should be authorised by Union or national law. All national data should be physically or logically separated from biometric data referred to in this Regulation *and should be processed in accordance with Regulation (EU) 2016/679*.
- (44) Member States should apply this Regulation at the latest **24** months after the date of its entry into force. As from the date of application of this Regulation, Member States should issue documents which respect the requirements set out in this Regulation.
- (45) The Commission should report on the implementation of this Regulation after *two years and eleven* years after its date of application, including on the appropriateness of the level of security, *taking into account its impact on fundamental rights and data protection principles*. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement of 13 April 2016 on Better Law-Making¹³ the Commission should, *six years after the date of application of this Regulation, and every six years thereafter*, carry out an evaluation of this Regulation on the basis of information collected through specific monitoring arrangements, in order to assess the actual effects of this Regulation and the need for any further action. *For the purpose of monitoring, Member States should collect data on the number of identity cards and residence documents issued*.

¹³ OJ L 123, 12.5.2016, p. 1.

- (46) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (47) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter including *human dignity, the right to the integrity of the person, the prohibition of inhuman or degrading treatment, the right to equality before the law and non-discrimination, the rights of children, the rights of the elderly*, respect for private and family life, the right to the protection of personal data, the right of free movement and the right to an effective remedy, *and Member States should comply with the Charter when implementing this Regulation.*
- (48) *The Fundamental Rights Agency and the European Data Protection Supervisor have issued opinions,*

HAVE ADOPTED THIS REGULATION:

CHAPTER I
SUBJECT MATTER, SCOPE AND DEFINITIONS

Article 1
Subject matter

This Regulation strengthens the security standards applicable to identity cards issued by Member States to their nationals and to residence documents issued by Member States to Union citizens and their family members when exercising their right to free movement.

Article 2
Scope

This Regulation applies to:

- (a) identity cards delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC;

The requirements of this Regulation shall not apply to identification documents used on a provisional basis with a validity of less than six months.

- (b) registration certificates issued to Union citizens residing for more than three months in a host Member State, in accordance with Article 8 of Directive 2004/38/EC, and documents certifying permanent residence issued to Union citizens upon application, in accordance with Article 19 of Directive 2004/38/EC;
- (c) residence cards issued to family members of Union citizens who are not nationals of a Member State, in accordance with Article 10 of Directive 2004/38/EC, and permanent residence cards issued to family members of Union citizens who are not nationals of a Member State, in accordance with Article 20 of Directive 2004/38/EC.

CHAPTER II
NATIONAL IDENTITY CARDS

Article 3

Security standards/format/specifications

1. Identity cards issued by Member States shall be produced in ID-1 format and shall ***contain a machine-readable zone (MRZ). They shall be based on the specifications and*** minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) ***and shall comply with the requirements set out in letters (c), (d), (f) and (g) of the Annex to Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954.***
2. ***The data elements included on identity cards shall comply with the specifications set out in part 5 of ICAO document 9303 (seventh edition, 2015).***
By way of derogation from the first subparagraph, the document number may be inserted in zone 1 and the designation of a person's gender shall be optional.
3. The document ***shall bear the*** title ('Identity card') ***or another well-established national designation*** in the official language or languages of the issuing Member State, ***and the words 'Identity card' in*** at least one other official language of the institutions of the Union.
4. ***The identity card shall contain, on the front side, the two-letter country code of the Member State issuing the card, encircled by twelve yellow stars and printed in negative in a blue rectangle.***
5. Identity cards shall include a highly secure storage medium which shall contain a facial image of the holder of the card and two fingerprints in interoperable ***digital*** formats. ***For the capture of biometric identifiers, Member States shall apply the technical specifications as established by Commission Decision C(2018)7767¹⁴.***

¹⁴ ***Commission Decision C(2018)7767 of 30 November 2018 laying down the technical specifications for the uniform format for residence permits for third-country nationals.***

6. The storage medium shall have sufficient capacity and capability to guarantee the integrity, the authenticity and the confidentiality of the data. The data stored shall be accessible contactless and secured as provided for in the *Decision C(2018)7767*. **Member States shall exchange the information necessary to authenticate the storage medium and to access and verify the biometric data referred to in paragraph 5.**
7. **Children under the age of 12 years may be exempt from the requirement to give fingerprints.**
Children under the age of 6 years shall be exempt from the requirement to give fingerprints.
Where it is temporarily impossible to take fingerprints of any of the fingers, Member States shall issue an identity card having a validity of twelve months or less.
Persons in respect of whom fingerprinting is physically impossible **shall be exempt from the requirement to give fingerprints.**
8. **When necessary and proportionate to the aim to be achieved,** Member States may enter details and observations for national use as required in the light of their national provisions. **The efficiency of minimum security standards and the cross-border compatibility of identity cards shall not be diminished.**
9. Where Member States incorporate a dual interface or a separate storage medium in the identity card, the additional storage medium shall comply with the relevant ISO standards and shall not interfere with the storage medium referred to in paragraph 5.
10. Where Member States store data for electronic services such as e-government and e-business in the identity cards, such national data shall be physically or logically separated from the biometric data referred to in paragraph 5.

11. Where Member States add **additional** security features to the identity cards, the cross-border **compatibility** of the identity cards and the efficiency of the minimum security standards shall not be diminished.

Article 4

Period of validity

- 1. Identity cards shall have a minimum period of validity of five years and a maximum period of validity of ten years.**
- 2. By way of derogation from paragraph 1, Member States may provide for a period of validity of:**
 - (a) less than five years, for identity cards issued to minors;**
 - (b) exceptionally less than 5 years for identity cards issued to persons subject to special and limited circumstances where their validity is limited in compliance with Union and national law;**
 - (c) more than 10 years, for identity cards issued to persons aged 70 and above.**

Article 5

Phasing out

- 1. Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by [*ten* years after *the date of application of this Regulation*], whichever is earlier.**

2. ***By way of derogation from paragraph 1:***
- (a) ***identity cards which do not meet the minimum security standards set out in part 2 of ICAO document 9303 (seventh edition, 2015) or which do not include a functional machine-readable zone (MRZ), as defined in paragraph 3, shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier;***
 - (b) ***identity cards of persons aged 70 and above at [the date of application of this Regulation], which meet the minimum security standards set out in part 2 of ICAO document 9303 and which have a functional machine-readable zone (MRZ), as defined in paragraph 3, shall cease to be valid at their expiry.***
3. ***For the purpose of paragraph 2, a functional machine-readable zone (MRZ) shall mean:***
- (a) ***a machine-readable zone compliant with part 3 of ICAO document 9303 (seventh edition, 2015); or***
 - (b) ***any other machine-readable zone for which the issuing Member State notifies the rules required for reading and displaying the information contained therein, unless a Member State notifies the Commission, by [the date of application of this Regulation], about its lack of capacity to read and display this information. The Commission shall inform the concerned Member State and the Council about such a notification accordingly.***

CHAPTER III
RESIDENCE DOCUMENTS FOR UNION CITIZENS

Article 6

Minimum information to be indicated

Residence documents *when* issued by Member States to Union citizens, shall indicate at least the following:

- (a) the title of the document in the official language or languages of the Member State concerned and in at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued *to a Union citizen* in accordance with Directive 2004/38/EC;
- (c) the document number;
- (d) the name (surname and forename(s)) of the holder;
- (e) the date of birth of the holder;
- (f) *the information to be included on registration certificates and documents certifying permanent residence, issued in accordance with Articles 8 and 19 of Directive 2004/38/EC, respectively;*
- (g) the *issuing authority*;
- (h) *on the front-side, the two-letter country code of the Member State issuing the document, printed in negative in a blue rectangle encircled by twelve yellow stars.*

*If a Member State decides to take fingerprints, Article 3(7) shall apply accordingly.
Persons in respect of whom fingerprinting is physically impossible shall be exempt from the
requirement to give fingerprints.*

CHAPTER IV
RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A
MEMBER STATE

Article 7

Uniform format

- 1 When issuing residence cards to family members of Union citizens who are not nationals of a Member State, Member States shall use the same format as established by Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954, and as implemented by the provisions of the Decision **C(2018)7767**.
- 2 By way of derogation from paragraph 1, a card shall bear the title 'Residence card' or 'Permanent residence card', respectively. Member States ***shall indicate that these documents are issued to a family member of a Union citizen in accordance with Directive 2004/38/EC. For this purpose, Member States shall*** use the standardised code ***'Family Member EU Art 10 DIR 2004/38/EC'*** or ***'Family Member EU Art 20 DIR 2004/38/EC'***, ***in data field [10], as referred to in the Annex to Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954.***
- 3 Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall respect the requirements set out in second paragraph of Article 4 of Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.

Article 8

Phasing out of existing residence cards

1. Residence cards of family members of Union citizens who are not nationals of a Member State, which *do not meet the requirements of Article 7* shall cease to be valid at their expiry or by [*five years after the date of application of this Regulation*], whichever is earlier.
2. ***By way of derogation from paragraph 1***, residence cards of family members of Union citizens who are not nationals of a Member State, which *do not meet the minimum security standards set out in part 2 of ICAO document 9303 (seventh edition, 2015) or which do not include a functional machine-readable zone (MRZ) compliant with part 3 of ICAO document 9303 (seventh edition, 2015)* , shall cease to be valid at their expiry or by [*two years after ... the date of application of this Regulation*], whichever is earlier.

CHAPTER V
COMMON PROVISIONS

Article 9

Point of contact

1. Each Member State shall designate *at least* one *central* authority as a contact point for the implementation of this Regulation. *Where a Member State has designated more than one central authority, it shall designate which of those authorities will be the point of contact for the implementation of this Regulation.* It shall communicate the name of that authority to the Commission and the other Member States. If a Member State changes its designated authority, it shall inform the Commission and the other Member States accordingly.
2. Member States shall ensure that the contact points are aware of relevant information and assistance services at Union level, *included in the Single Digital Gateway set out in Regulation (EU) 2018/1724 of the European Parliament and of the Council¹⁵* and that they are able to cooperate with such services.

Article 10

Collection of biometric identifiers

1. *The biometric identifiers shall be collected solely by qualified and duly authorised staff designated by the authorities responsible for issuing identity cards or residence cards, for the purpose of being integrated into the highly secure storage medium provided for in Article 3(5) for identity cards and in Article 7(1) for residence cards. By way of derogation, fingerprints shall be collected solely by qualified and duly authorised staff of such authorities, except in the case of applications submitted to the diplomatic and consular authorities of the Member State.*

¹⁵ *Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).*

In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the applicant shall appear in person for each application at least once during the issuance process.

2. *Member States shall ensure that appropriate and effective procedures for the collection of biometric identifiers are in place, which comply with the rights and principles set out in the Charter, the Convention for the Protection of Human Rights and Fundamental Freedoms and the United Nations Convention on the Rights of the Child.*

Where difficulties are encountered in the collection of biometric identifiers, Member States shall ensure that appropriate procedures are in place to guarantee the dignity of the person concerned.

3. *Other than where required for the purpose of processing in accordance with Union and national law, biometric identifiers stored for the purpose of personalisation of identity cards or residence documents shall be kept in a highly secure manner and only until the date of collection of the document and in any case, no longer than 90 days from the date of issue. After this period, these biometric identifiers shall be immediately erased or destroyed.*

Article 11

Protection of personal data *and liability*

- (1) *Regulation (EU) 2016/679 applies to the processing of personal data under this Regulation.*
- (2) *Member States shall ensure the security, integrity, authenticity and confidentiality of the data collected and stored for the purpose of this Regulation.*

- (3) *For the purpose of this Regulation, the authorities responsible for issuing identity cards and residence documents shall be regarded as the controller referred to in Article 4(7) of Regulation (EU) 2016/679 and shall have responsibility for the processing of personal data.*
- (4) *Member States shall ensure that supervisory authorities can fully exercise their tasks as referred to in Regulation (EU) 2016/679, including access to all personal data and all necessary information as well as access to any premises or data processing equipment of the competent authorities.*
- (5) *Cooperation with external service providers shall not exclude any liability arising under Union or the national law of the Member State for breaches of obligations with regard to personal data.*
- (6) *Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national law of the issuing Member State.*
- (7) *Biometric data stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law, by the duly authorised staff of competent national authorities and EU agencies, for the purpose of verifying:*

 - (a) *the authenticity of the identity card or residence document;*
 - (b) *the identity of the holder by means of directly available comparable features where the identity card or residence document is required to be produced by law.*
- (8) *Member States shall maintain and communicate annually to the Commission a list of the competent authorities with access to the biometric data stored on the chip referred to in Article 3(5) of this Regulation. The Commission shall publish online a compilation of such national lists.*

Article 12

Monitoring

By 12 months after the date of entry into force of this Regulation, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation, ***including its impact on fundamental rights.***

The monitoring programme shall set out the means by which and the intervals at which the data and other necessary evidence are to be collected. It shall specify the action to be taken by the Commission and by Member States in collecting and analysing the data and other evidence.

Member States shall provide the Commission with the data and other evidence necessary for such monitoring.

Article 13

Reporting and Evaluation

1. ***Two years and eleven*** years after its date of application, the Commission shall report to the European Parliament, the Council and the European Economic and Social Committee on the implementation of this Regulation, ***in particular on the protection of fundamental rights and personal data.***
2. Six years after the date of application of this Regulation, ***and every subsequent six years,*** the Commission shall carry out an evaluation of this Regulation and present a report on the main findings to the European Parliament, the Council and the European Economic and Social Committee. The evaluation shall be conducted according to the Commission's Better Regulation Guidelines. ***This report shall in particular focus on:***
 - ***the impact on fundamental rights;***
 - ***the mobility of Union citizens;***
 - ***the effectiveness of biometric verification in ensuring the security of travel documents;***

- *a possible use of residence cards as travel documents;*
 - *a possible further visual harmonisation of identity card;*
 - *the necessity of introducing common security features of identification documents used on a provisional basis in view of their better recognition.*
3. Member States *and relevant EU agencies* shall provide the Commission with the information necessary for the preparation of these reports.

Article 14

Additional technical specification

1. *In order to ensure, where appropriate, that identity cards and residence documents referred to in points (a) and (c) of Article 2 comply with future minimum security standards, the Commission shall establish, by means of implementing acts, additional technical specifications, relating to the following:*
- (a) *additional security features and requirements, including enhanced anti forgery, counterfeiting and falsification standards;*
 - (b) *technical specifications for the storage medium of the biometric features referred to in Article 3(5) and their security, including prevention of unauthorised access and facilitation of validation;*
 - (c) *requirements for quality and common technical standards for the facial image and the fingerprints.*

Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15(2).

2. *In accordance with the procedure referred to in Article 15(2), it may be decided that the specifications referred to in this Article shall be secret and not published. In such a case, they shall be made available only to the bodies designated by the Member States as responsible for printing and to persons duly authorised by a Member State or the Commission.*
3. *Each Member State shall designate one body having responsibility for printing identity cards and one body for printing residence cards of family members of Union citizens and shall communicate the names of such bodies to the Commission and to the other Member States. Member States shall be entitled to change such designated bodies and shall inform the Commission and the other Member States accordingly.*
Member States may also decide to designate the same body for printing identity cards and residence cards of family members of Union citizens and shall communicate the name of this body to the Commission and the other Member States.
Two or more Member States may also decide to designate the same body and shall inform the Commission and the other Member States accordingly.

Article 15

Committee procedure

1. *The Commission shall be assisted by the Committee established by Article 6 of Regulation (EC) No. 1683/95. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.*
2. *Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee does not deliver an opinion, the Commission shall not adopt the draft implementing act and the third subparagraph of Article 5(4) of Regulation (EU) No 182/2011 shall apply.*

Article 16

Entry into force

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

It shall apply from **24** months after the date of its entry into force.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

The President

For the Council

The President
