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REPORT

1. on the Commission proposal for a Council regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas (COM(2003)0558 – C5-0466/2003 – 2003/0217(CNS))

2. on the Commission proposal for a Council regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals (COM(2003)0558 – C5-0467/2003 – 2003/0218(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Carlos Coelho

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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1. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Commission proposal for a Council regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas
(COM(2003)0558 – C5-0466/2003 – 2003/0217(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2003)0558)¹,
 - having regard to Article 62(2)(b)(iii) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0466/2003),
 - having regard to the Protocol integrating the Schengen acquis into the framework of the European Union, pursuant to which the Council consulted Parliament,
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0029/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

Amendment 1
RECITAL 1 A (new)

¹ Not yet published in OJ.

(1a) The sole purpose of including biometric data in the uniform format for visas is to establish a more reliable link between the visa and its holder.

Amendment 2
RECITAL 2

(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.***

(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.

Justification

Document No 9303 should not be referred to in a EU regulation, since it is constantly subject to change in a process which lacks transparency and democratic legitimacy.

Amendment 3
RECITAL 2 A (new)

(2a) The biometric data in the uniform format for visas should be used only for verifying the authenticity of the document and the identity of the holder by means of directly available comparable features when the passport and visa are required to be produced by law.

Justification

Since the reason for incorporating biometric features into visas has to be explicit, appropriate, proportionate and clear, it needs to be incorporated into the legal text.

Amendment 4
RECITAL 3

(3) The specifications for the enrolment of the biometric identifiers shall be in line with the requirements for the Visa Information System (VIS). *deleted*

Justification

Since the requirements for the Visa Information System (VIS) are still to be decided in the legislative process, they cannot be referred to in this regulation.

Amendment 5
RECITAL 6

(6) 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 data 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.

(6) 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 data 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.
No further information should be included in the uniform format for visas.

Justification

It must be made very clear exactly what information is to be stored in the visa, and no provisions should be made for further information to be stored.

Amendment 6
ARTICLE 1, POINT -1 (new)
Article 2, paragraph 1, introductory part (Regulation (EC) No 1683/95)

(-1) The introductory part of Article 2(1)

shall be replaced by the following:

"1. Further technical specifications for the uniform format for visas relating to the following shall be established in accordance with the procedure referred to in Article 6:"

Justification

See justification for the amendment to Article 6, paragraph 3 a (new).

Amendment 7

ARTICLE 1, POINT 1

Article 2, paragraph 1, point (c) (Regulation (EC) No 1683/95)

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

(c) technical specifications for the storage medium of the biometric information and its securisation, ***in particular to safeguard the integrity, authenticity and confidentiality of the data as well as the use thereof in accordance with the purposes as defined in this Regulation; the storage medium shall not be a microchip.***

Justification

The technical specifications are crucial to privacy. Certain criteria with which they have to comply should therefore be specifically mentioned.

Amendment 8

ARTICLE 1, POINT 1

Article 2, paragraph 1, point (d) (Regulation (EC) No 1683/95)

(d) requirements for the quality of the fingerprint images.

(d) requirements for the quality of the fingerprint images, ***including safeguards for persons who cannot provide fingerprints.***

Justification

It is important to have an appropriate procedure dealing with such cases, which are not uncommon.

Amendment 9

ARTICLE 1, POINT 1 A (new)

Article 2, paragraph 2 a (new) (Regulation (EC) No 1683/95)

(1a) The following paragraph 2a shall be added to Article 2:

"2a. The storage medium may be used only:

(a) by the competent authorities of the Member States for reading, storing, modifying and erasing data; and

(b) by authorised bodies entitled by law to read the data for reading the data."

Justification

It should be clearly laid down in the legal text which authorities will have access to the data. Unauthorised access is not acceptable from a privacy point of view.

Amendment 10

ARTICLE 1, POINT 2

Article 4, paragraph 2 (Regulation (EC) No 1683/1995)

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.

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. ***No further information shall be included in the uniform format for visas.***

Justification

It must be made very clear exactly what information is to be stored in the visa, and no provisions should be made for further information to be stored.

Amendment 11

ARTICLE 1, POINT 2 A (new)

Article 4, paragraph 2 a (new) (Regulation (EC) No 1683/95)

(2a) The following paragraph 2a shall be added to Article 4:

"2a. The biometric features in the uniform format for visas shall only be used for verifying:

(a) the authenticity of the document;

(b) the identity of the holder by means of directly available comparable features when the passport and visa are required to be produced by law."

Justification

Since the reason for incorporating biometric features into visas has to be explicit, appropriate, proportionate and clear, it needs to be incorporated into the legal text.

Amendment 12

ARTICLE 1, POINT 2 B (new)

Article 4, paragraph 2 b (new) (Regulation (EC) No 1683/95)

(2b) The following paragraph 2b shall be added to Article 4:

"2b. Member States shall regularly forward to the Commission audits of the application of this Regulation based on commonly agreed standards, in particular as regards the rules limiting the purposes for which data may be used and the bodies which may have access to the data. They shall also communicate to the Commission all problems encountered in applying this Regulation and shall

exchange good practice with the Commission and between themselves."

Justification

It is very important to have an effective control network in place to build up trust in the concept of biometrics.

Amendment 13

ARTICLE 1, POINT 3

Article 4a, paragraph 2 (Regulation (EC) No 1683/95)

The biometric information shall be kept on a storage medium which shall ***be highly secured and which shall*** have sufficient capacity.

The biometric information shall be kept on a ***highly secure*** storage medium which shall have sufficient capacity ***and the capability of safeguarding the integrity, authenticity and confidentiality of the data. The storage medium shall not be a microchip.***

Justification

The technical specifications are crucial to privacy. Certain criteria with which they have to comply should therefore be specifically mentioned.

Amendment 14

ARTICLE 1, POINT 3 A (new)

Article 6, paragraph 3 a (new) (Regulation (EC) No 1683/95)

(3a) The following paragraph 3a shall be added to Article 6:

"3a. The Committee shall be assisted by experts appointed by the Working Party set up under Article 29 of Directive 95/46/EC."

Justification

The technical specifications are of the utmost importance because they will determine whether the incorporation of biometrics into passports will be useful or not and whether the

data will be physically protected. Experts viewing the technical specifications from a data-protection point of view should have the possibility of participating in the work of the technical committee, thereby also advising on which possible technical solutions are better from a data-protection point of view. At the end they should have the possibility of evaluating the technical specifications from a data protection perspective. To ensure democratic accountability the European Parliament should have the possibility of opposing the adoption of the technical specifications.

Amendment 15

ARTICLE 1, POINT 3 B (new)

Article 6, paragraph 3 b (new) (Regulation (EC) No 1683/95)

(3b) The following paragraph 3b shall be added to Article 6:

"3b. Once the Committee has finalised the specifications provided for in Article 2(1), the Working Party set up under Article 29 of Directive 95/46/EC shall issue an opinion on the compliance of such specifications with data-protection standards, which shall be forwarded to the European Parliament, the Council and the Commission."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

Amendment 16

ARTICLE 1, POINT 3 C (new)

Article 6, paragraph 3 c (new) (Regulation (EC) No 1683/95)

(3c) The following paragraph 3c shall be added to Article 6:

"3c. The Commission shall forward its draft decision to the European Parliament which may, within a period of three months, adopt a resolution opposing the draft decision on the technical specifications."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

Amendment 17

ARTICLE 1, POINT 3 D (new)

Article 6, paragraph 3 d (new) (Regulation (EC) No 1683/95)

(3d) The following paragraph 3d shall be added to Article 6:

"3d. The Commission shall inform the European Parliament of the action which it intends to take in response to the European Parliament's resolution and of its reasons for doing so."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

Amendment 18

ARTICLE 1, POINT 3 E (new)

Article 6, paragraph 3 e (new) (Regulation (EC) No 1683/95)

(3e) The following paragraph 3d shall be added to Article 6:

"3e. The confidentiality of the specifications shall be guaranteed."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

2. DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the Commission proposal for a Council regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals
(COM(2003)0558 – C5-0467/2003 – 2003/0218(CNS))**

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2003)0558)¹,
 - having regard to Article 63(3)(a) of the EC Treaty,
 - having regard to Article 67 of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0466/2003),
 - having regard to the Protocol integrating the Schengen acquis into the framework of the European Union, pursuant to which the Council consulted Parliament,
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0029/2004),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, pursuant to Article 250(2) of the EC Treaty;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Calls for initiation of the conciliation procedure under the Joint Declaration of 4 March 1975 if the Council intends to depart from the text approved by Parliament;
 5. Calls on the Council to consult Parliament again if it intends to amend the Commission proposal substantially;
 6. Instructs its President to forward its position to the Council and Commission.

Text proposed by the Commission

Amendments by Parliament

¹ Not yet published in OJ.

Amendment 19
RECITAL 2 A (new)

(2a) The sole purpose of including biometric data in the uniform format for residence permits is to establish a more reliable link between the residence permit and its holder.

Amendment 20
RECITAL 3

(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.***

(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.

Justification

Document No 9303 should not be referred to in a EU regulation, since it is constantly subject to change in a process which lacks transparency and democratic legitimacy.

Amendment 21
RECITAL 3 A (new)

(3a) The biometric data in the uniform format for residence permits should be used only for verifying the authenticity of the document and the identity of the holder by means of directly available comparable features when the residence permit is required to be produced by law.

Justification

Since the reason for incorporating biometric features into residence permits has to be explicit, appropriate, proportionate and clear, it needs to be incorporated into the legal text.

Amendment 22
RECITAL 5

(5) 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 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data 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.

(5) 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 24.10.1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data 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. ***No further information should be included in the uniform format for residence permits.***

Justification

It must be made very clear exactly what information is to be stored in the residence permit, and no provisions should be made for further information to be stored.

Amendment 23
ARTICLE 1, POINT -1 (new)
Article 2, paragraph 1, introductory part (Regulation (EC) No 1030/2002)

(-1) The introductory part of Article 2(1) shall be replaced by the following:

"1. Additional technical specifications for the uniform format for residence permits relating to the following shall be established in accordance with the procedure referred to in Article 7:"

Justification

See justification for the amendment to Article 7, paragraph 3 a (new).

Amendment 24

ARTICLE 1, POINT 1

Article 2, paragraph 1, point (d) (Regulation (EC) No 1030/2002)

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

(d) technical specifications for the storage medium of the biometric information and its securisation, ***in particular to safeguard the integrity, authenticity and confidentiality of the data as well as the use thereof in accordance with the purposes as defined in this Regulation;***

Justification

The technical specifications are crucial to privacy. Certain criteria with which they have to comply should therefore be specifically mentioned.

Amendment 25

ARTICLE 1, POINT 1

Article 2, paragraph 1, point (e) (Regulation (EC) No 1030/2002)

(e) requirements for the quality of the fingerprint images.

(e) requirements for the quality of the fingerprint images, ***including safeguards for persons who cannot provide fingerprints.***

Justification

It is important to have an appropriate procedure dealing with such cases, which are not uncommon.

Amendment 26

ARTICLE 1, POINT 1 A (new)

Article 2, paragraph 2 a (new) (Regulation (EC) No 1030/2002)

(1a) The following paragraph 2a shall be added to Article 2:

"2a. The storage medium may be used only:

(a) by the competent authorities of the Member States for reading, storing, modifying and erasing data; and

(b) by authorised bodies entitled by law to read the data for reading the data."

Justification

It should be clearly laid down in the legal text which authorities will have access to the data. Unauthorised access is not acceptable from a privacy point of view.

Amendment 27

ARTICLE 1, POINT 2

Article 4, paragraph 2 (Regulation (EC) No 1030/2002)

No information in 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.

No information in 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. ***No further information shall be included in the uniform format for residence permits.***

Justification

It must be made very clear exactly what information is to be stored in the residence permit, and no provisions should be made for further information to be stored.

Amendment 28

ARTICLE 1, POINT 2 A (new)

Article 4, paragraph 2 a (new) (Regulation (EC) No 1030/2002)

(2a) The following paragraph 2a shall be added to Article 4:

"2a. The biometric features in the uniform format for residence permits shall be used only for verifying:

(a) the authenticity of the document;

(b) the identity of the holder by means of directly available comparable features when the residence permit is required to be produced by law."

Justification

Since the reason for incorporating biometric features into residence permits has to be explicit, appropriate, proportionate and clear, it needs to be incorporated into the legal text.

Amendment 29

ARTICLE 1, POINT 2 B (new)

Article 4, paragraph 2 b (new) (Regulation (EC) No 1030/2002)

(2b) The following paragraph 2b shall be added to Article 4:

"2b. Member States shall regularly forward to the Commission audits of the application of this Regulation based on commonly agreed standards, in particular as regards the rules limiting the purposes for which data may be used and the bodies which may have access to the data. They shall also communicate to the Commission all problems encountered in applying this Regulation and shall exchange good practice with the Commission and between themselves."

Justification

It is very important to have an effective control network in place in order to build up trust in the concept of biometrics.

Amendment 30

ARTICLE 1, POINT 3

Article 4a, paragraph 2 (Regulation (EC) No 1030/2002)

The biometric information shall be kept on a storage medium which shall ***be highly secured and which shall*** have sufficient capacity.

The biometric information shall be kept on a ***highly secure*** storage medium which shall have sufficient capacity ***and the capability of safeguarding the integrity, authenticity and confidentiality of the data.***

Justification

The technical specifications are crucial to privacy. Certain criteria with which they have to comply should therefore be specifically mentioned.

Amendment 31

ARTICLE 1, POINT 3 A (new)

Article 7, paragraph 3 a (new) (Regulation (EC) No 1030/2002)

(3a) The following paragraph 3a shall be added to Article 7:

"3a. The Committee shall be assisted by experts appointed by the Working Party set up under Article 29 of Directive 95/46/EC."

Justification

The technical specifications are of the utmost importance because they will determine whether the incorporation of biometrics into passports will be useful or not and whether the data will be physically protected. Experts viewing the technical specifications from a data protection point of view should have the possibility of participating in the work of the technical committee, thereby also advising on which possible technical solutions are better from a data protection point of view. At the end they should have the possibility of evaluating the technical specifications from a data protection perspective. To ensure democratic accountability the European Parliament should have the possibility of opposing the adoption of the technical specifications.

Amendment 32

ARTICLE 1, POINT 3 B (new)

Article 7, paragraph 3 b (new) (Regulation (EC) No 1030/2002)

(3b) The following paragraph 3b shall be added to Article 7:

"3b. Once the Committee has finalised the specifications provided for in Article 2(1), the Working Party set up under Article 29 of Directive 95/46/EC shall issue an opinion on the compliance of such specifications with data-protection standards, which shall be forwarded to the European Parliament, the Council and the Commission."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

Amendment 33

ARTICLE 1, POINT 3 C (new)

Article 7, paragraph 3 c (new) (Regulation (EC) No 1030/2002)

(3c) The following paragraph 3c shall be added to Article 7:

"3c. The Commission shall forward its draft decision to the European Parliament which may, within a period of three months, adopt a resolution opposing the draft decision on the technical specifications."

Justification

See justification for the amendment of ARTICLE 1, POINT 3 A (new).

Amendment 34

ARTICLE 1, POINT 3 D (new)

Article 7, paragraph 3 d (new) (Regulation (EC) No 1030/2002)

(3d) The following paragraph 3d shall be added to Article 7:

"3d. The Commission shall inform the

European Parliament of the action which it intends to take in response to the European Parliament's resolution and of its reasons for doing so."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

Amendment 35
ARTICLE 1, POINT 3 E (new)
Article 7, paragraph 3 e (new) (Regulation (EC) No 1030/2002)

(3e) The following paragraph 3e shall be added to Article 7:

"3e. The confidentiality of the specifications shall be guaranteed."

Justification

See justification for the amendment to ARTICLE 1, POINT 3 A (new).

EXPLANATORY STATEMENT

1. Background

In 1995 the regulation on a uniform format for visas was adopted.¹ At the time this was an obligation laid down in Art. 100 c (Maastricht Treaty): establishing the internal market. In order to achieve the objective of freedom of movement for persons, various measures were needed, including harmonisation of visa policy. After 11 September 2001 it was then decided to include the photograph (to be printed on the visa/residence permit) as of 2007 in order to improve document security.²

In the meantime "Member States have emphasised that they would like to see further enhancement of the security standards [...]. They have made it clear that they are in favour of including biometric identifiers in the visa and the residence permit for third country nationals in order to establish a more reliable link between holder, passport and visa", (COM(2003)558, p. 2). As requested by the Brussels European Council of October 2003 the Justice and Home Affairs Council reached a so called "general approach" at its meeting of 27/28 November 2003.

2. Content of the proposals

The Commission proposes to bring forward the final date for the implementation of the photograph from 2007 to 2005 and at the same time to require Member States to integrate biometric identifiers into the visa and the residence permit for third country nationals.

In practical terms for the visa this would mean: A third country national applying for a visa in the French consulate in Rabat will have his picture (or he brings a picture of good quality that can be scanned) and two fingerprints taken. The picture will figure on the visa. The picture and the fingerprints will be stored on a microchip on the visa itself. This data will be kept on a national level. The person then travels to the EU. At the border entry point the border guard has the technical equipment to read the chip: on his computer screen he will see the picture of the person taken in Rabat. In a first step he can visually compare the picture with the person in front of him and the picture printed on the visa. If he has doubts whether they are identical, in a second step the fingerprints on the chip and of the person present can be compared.

3. Rapporteur's view

The rapporteur generally agrees with the intention of the two proposals, i.e. the use of biometrics to strengthen the security of issued visas and residence permits. Biometrics enables a reliable link between a person and a document to be established, thereby solving two increasingly frequent problems: firstly, the use of biometrics will make it almost impossible to enter the territory of the EU with a false identity (i.e. using the passport of another person). Border officials today are increasingly confronted with the problem of "look alikes". It is for

¹ OJ L 164, 14.7.1995, p. 1.

² Council Regulation (EC) No 334/2002 of 18 February 2002 amending Regulation (EC) No 1683/95 laying down a uniform format for visas; OJ L 053, 23.02.2002, p. 7.

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, 15.06.2002, 2.

example very difficult even for a well trained border guard to identify with certainty people from other cultural areas. Secondly, searches based only on alphanumeric data (for example names) become increasingly unreliable. Today's border control scenario can provide for example for a check in the Schengen Information System (SIS) at the moment of application for a visa and at the moment of entry. Currently this search, for example to check whether a person is not allowed to enter the Schengen territory, is usually made with the name. There are, however, many common names and as well different spellings of the same name depending on the transliteration rules used. It is consequently not only more and more difficult to identify a person correctly but also more and more common to wrongly identify a person for somebody he or she is not with the latter leading sometimes to serious problems for those persons.

Against these advantages the rapporteur sees three main problematic issues which need to be addressed: privacy and data protection, the relationship of the present proposal on the uniform format for visas with the development of the Visa Information System (VIS), and the actual implementation of the proposal on the visa.

As expressed by the Article 29 Working Party in its opinion on the two proposals under consideration¹ the use of biometrics is "likely to have a major impact on the fundamental rights of the persons concerned." (page 3) The rapporteur is of the opinion that all necessary action must be taken to ensure that such rights are upheld. The opinion contains a series of recommendations to this end that the rapporteur supports. He expects the other institutions to follow them as well.

The rapporteur also considers that other, non-chip technologies should not be excluded. Thanks to technological progress there are even solutions which would make the use of chips superfluous from both the security and the cost point of view. Digital recording of the photograph and of the fingerprint, together with a bar code incorporating a digital signature encrypted by means of a public-key code, is one possible solution.

The present proposal on the uniform format for visas is closely linked to the development of the VIS. The VIS will be a system for the exchange of visa data between Member States on a common technical platform with the Schengen Information System II (SIS II). So far it was shaped by a series of European and JHA Council conclusions, the main document being the Council Conclusions on the development of the Visa Information System (VIS) adopted on 19 February 2004. A first legal instrument that gives a mandate for the development of the system and that provides for the financing of this work out of the EU budget was adopted by Council on 8 June 2004 (Council Decision 2004/512/EC) despite Parliament's rejection² of the Commission proposal (COM(2004)99). A proposal for the second legal basis which will define the VIS in all its elements and operations (like purpose, content, users etc.) is expected. In a letter of 19 July 2004 to the chairman of the Committee on Civil Liberties, Justice and Home Affairs Commissioner Vitorino confirmed that the proposal will be based on a legal basis providing for the codecision procedure. The development of the VIS is of utmost importance in this context since the very same data that is supposed to be stored on the chip integrated into the visa plus additional data (inter alia 10 fingerprints) will as well be stored in

¹ Opinion No 7/2004 on the inclusion of biometric elements in residence permits and visas taking account of the establishment of the European information system on visas (VIS) adopted on 11 August 2004, WP 96.

² P5_TA-PROV(2004)0352 of 22 April 2004.

the VIS with basically the same authorities having access to both storage mediums.

The question therefore arises why it should be necessary to store the very same information in two different locations. This question is so far nowhere analysed not even in the VIS feasibility study. The decentralised storage only on a chip without a central database would clearly be preferable from a data protection point of view and it would also have the advantage of a short response time at the moment of the border check. On the other hand, however, the necessity of a central database cannot be denied. The rapporteur is of the opinion that only a central database can serve to prevent visa-shopping, to handle background checks and to identify undocumented persons. In addition, it is necessary as a back-up in case of chip mal-functions. From a logical point of view the chip can therefore only be regarded as an intermediate solution until the VIS is set up.¹ Considering the almost identical timetables of both projects and the costs involved the rapporteur asks whether it is justified to have both.

As regards the chip as an intermediate solution the rapporteur would like to refer to the comments he made about the technical specifications and the actual implementation in his report about the proposal regarding EU passports which are also valid in this context.

The actual implementation of the proposal on the uniform format for visas will be a particular challenge. The Commission still has to make a proposal to change the common consular instructions that will clarify inter alia how the fingerprints will be taken. It is self-evident that the whole concept of biometrics, the very idea of establishing a more reliable link between a person and a document, depends on the quality of the initial identification and the following enrolment process. Tests conducted so far have shown that in particular the costs involved have been underestimated. A UK test in Colombo cost £500 000 for setting up the technical solution, £300 000 for necessary modifications in the visa section and £25 000 annually as running costs. With currently 3500 consular posts of the Member States the absolute total costs would be very high. Hence it is incomprehensible that the Commission's proposal should reach Parliament with no accompanying estimate of costs.

Attention should also be drawn to the importance of the systematic process of fingerprinting visa applicants, which should always be carried out in a very correct and professional manner. The EU economy has always been a very open one and if recent experience in the USA is anything to go by, there is a very high risk that the number of visa applications will go down drastically.

To conclude, the rapporteur supports the two proposals while stressing that many practical problems still require a lot of reflection.

¹ The US for example stores the visa data only in a central database. The link to a specific visa and its data is made with a reference number. Apparently the process of retrieving the data from the central database goes very fast.

MINORITY OPINION

pursuant to Rule 48(3) of the Rules of Procedure
tabled by Ole Krarup, Sylvia-Yvonne Kaufmann, Mary Lou McDonald and Giusto Catania

We reject the general idea of introducing biometric identifiers in identity documents for several reasons:

Firstly, we are seriously concerned about huge risks to data protection and privacy in what will be extremely large databases. Risks in storage, access to and transmission of data are not resolved, dangers of identity theft and abuse remain even if the data is only stored on a chip. Problems with multiple identities, interception of data transmissions and pro-active policing continue to exist. Biometric systems are never 100% accurate, even fingerprints will not be precise on several hundred thousand people in the EU.

Secondly, the proposal violates all common standards of appropriateness and subsidiarity. Until now, neither the Commission nor the Council have adequately explained the necessity, functionality, efficiency and probable side-effects of including biometric identifiers in identity documents. They have not even provided detailed figures of the expected costs nor proposed a clear budget!

Finally, biometrics do not increase security, because they don't link a person to a real identity, only to an identity established by an identity document. If the passport is false, however, the biometric identifier included on it can't change this. Future criminals will therefore register in all available databases under false identities and sail through coming controls unchecked, making the world less not more secure. Future terrorists who are ready to throw away their life will even do so by giving their real identity.

1. PROCEDURE

Title	Commission proposal for a Council regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas		
References	COM(2003)0558 – C5-0466/2003 – 2003/0217(CNS)		
Legal basis	Article 67 EC		
Basis in Rules of Procedure	Rule 51		
Date of consulting Parliament	7.10.2003		
Committee responsible Date announced in plenary	LIBE 16.9.2004		
Committee(s) asked for opinion(s) Date announced in plenary			
Not delivering opinion(s) Date of decision			
Enhanced cooperation Date announced in plenary			
Rapporteur(s) Date appointed	Carlos Coelho 26.7.2004		
Previous rapporteur(s)			
Simplified procedure Date of decision			
Legal basis disputed Date of JURI opinion			
Financial endowment amended Date of BUDG opinion			
European Economic and Social Committee consulted Date of decision in plenary			
Committee of the Regions consulted Date of decision in plenary			
Discussed in committee	27.7.2004	12.10.2004	25.10.2004
Date adopted	25.10.2004		
Result of final vote	for:	26	
	against:	9	
	abstentions:	1	
Members present for the final vote	Alexander Nuno Alvaro, Roberta Angelilli, Edit Bauer, Kathalijne Maria Buitenweg, Giusto Catania, Charlotte Cederschiöld, Carlos Coelho, António Costa, Agustín Díaz De Mera García Consuegra, Antoine Duquesne, Kinga Gál, Lilli Gruber, Timothy Kirkhope, Ewa Klamt, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Stavros Lambrinidis, Henrik Lax, Sarah Ludford, Edith Mastenbroek, Jaime Mayor Oreja, Claude Moraes, Hartmut Nassauer, Athanasios Pafilis, Lapo Pistelli, Martine Roure, Michele Santoro, Luciana Sbarbati, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka		
Substitutes present for the final vote	Gérard Deprez, Luis Francisco Herrero-Tejedor, Sophia Helena In 't Veld, Jean Denise Lambert, Vincent Peillon, Agnes Schierhuber, Antonio Tajani		
Substitutes under Rule 178(2) present for the final vote			

Date tabled – A6	28.10.2004	A6-0029/2004
Comments		

2. PROCEDURE

Title	Commission proposal for a Council regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals		
References	COM(2003)0558 – C5-0467/2003 – 2003/0218(CNS)		
Legal basis	Article 67 EC		
Basis in Rules of Procedure	Rule 51		
Date of consulting Parliament	7.10.2003		
Committee responsible Date announced in plenary	LIBE 16.9.2004		
Committee(s) asked for opinion(s) Date announced in plenary			
Not delivering opinion(s) Date of decision			
Enhanced cooperation Date announced in plenary			
Rapporteur(s) Date appointed	Carlos Coelho 26.7.2004		
Previous rapporteur(s)			
Simplified procedure Date of decision			
Legal basis disputed Date of JURI opinion			
Financial endowment amended Date of BUDG opinion			
European Economic and Social Committee consulted Date of decision in plenary			
Committee of the Regions consulted Date of decision in plenary			
Discussed in committee	27.7.2004	12.10.2004	25.10.2004
Date adopted	25.10.2004		
Result of final vote	for:	26	
	against:	9	
	abstentions:	0	
Members present for the final vote	Alexander Nuno Alvaro, Roberta Angelilli, Edit Bauer, Kathalijne Maria Buitenweg, Giusto Catania, Charlotte Cederschiöld, Carlos Coelho, António Costa, Agustín Díaz De Mera García Consuegra, Antoine Duquesne, Kinga Gál, Lilli Gruber, Timothy Kirkhope, Ewa Klamt, Wolfgang Kreissl-Dörfler, Barbara Kudrycka, Stavros Lambrinidis, Henrik Lax, Sarah Ludford, Edith Mastenbroek, Jaime Mayor Oreja, Claude Moraes, Hartmut Nassauer, Athanasios Pafilis, Lapo Pistelli, Martine Roure, Michele Santoro, Luciana Sbarbati, Inger Segelström, Ioannis Varvitsiotis, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka		
Substitutes present for the final vote	Gérard Deprez, Luis Francisco Herrero-Tejedor, Sophia Helena In 't Veld, Jean Denise Lambert, Vincent Peillon, Agnes Schierhuber, Antonio Tajani		
Substitutes under Rule 178(2) present for the final vote			

Date tabled – A6	28.10.2004	A6-0029/2004
Comments		