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REPORT

on the proposal for a Council decision on authorising Member States to ratify
in the interests of the Community the Seafarers' Identity Documents
Convention of the International Labour Organization (Convention 185)

(COM(2004)0530 – C6-0167/2004 – 2004/0180(CNS))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Ioannis Varvitsiotis

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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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council decision on authorising Member States to ratify in the interests of the Community the Seafarers' Identity Documents Convention of the International Labour Organization (Convention 185)

(COM(2004)0530 – C6-0167/2004 – 2004/0180(CNS))

(Consultation procedure)

The European Parliament,

- having regard to the Commission proposal (COM(2004)0530)¹,
 - having regard to Article 62(2)(b)(i) and Article 300(2), first subparagraph, first sentence of the EC Treaty,
 - having regard to Article 300(3), first subparagraph, of the EC Treaty, pursuant to which the Council consulted Parliament (C6-0167/2004),
 - having regard to Rules 51 and 83(7) of its Rules of Procedure,
 - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A6-0037/2005),
1. Approves the Commission proposal;
 2. Instructs its President to forward its position to the Council and Commission, and the governments and parliaments of the Member States.

¹ Not yet published in OJ.

EXPLANATORY STATEMENT

International Labour Organisation Convention No 185

International Labour Organisation Convention No. 185 (revised) concerning seafarers' identification documents aims to improve the system of identifying seafarers by simplifying the formalities involved in going ashore in countries of which they are not nationals. To achieve that objective, the Convention lays down certain rules on visas for seafarers taking shore leave. The Convention also refers to the entry of seafarers into Member States' territory, in particular in the event of transit, transfer or repatriation. Its ultimate objective is flexibility and security, notably through the introduction of biometric data.

The Convention was adopted by the Member States on 19 June 2003 at the General Conference of the ILO. The Commission took part in the negotiations as an observer, though only the Member States may accede to the Convention.

Three countries have ratified the Convention to date: France on 27 April 2004, Jordan on 8 August 2004, and Nigeria on 18 August 2004.

Subject of the proposal for a Council Decision

According to Title IV of the EC Treaty entitled '*Visas, asylum, immigration and other policies related to free movement of persons*', policy on visas, of both short and long duration, falls within the Community's competence. Article 62(2)(b)(i) establishes, in particular, that measures concerning the list of third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement fall within the competence of the European Community.

Article 6(6) of the revised ILO Convention, which provides that '*For the purpose of shore leave seafarers shall not be required to hold a visa*', incontestably falls within the scope of Title IV of the Treaty.

However, following the Court of Justice's judgment on the AETR (European Agreement Concerning the Work of Crews of Vehicles Engaged in International Road Transport) concerning external competences where the Community has already exercised a competence conferred on it by the Treaty, Member States are no longer free, on their own initiative, to ratify an international agreement which concerns those competences.

In the case in question, the Community has already exercised its competence in this field by adopting Council Regulation (EC) No 539/001 of 15 March 2001¹ listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement.

¹ OJ L 081, 21.03.2001, amended by Council Regulations (EC) Nos. 2414/2001 of 7 December 2001 and 453/2003 of 6 March 2003.

For that reason, the Commission proposes that the Council should **authorise** those Member States which are bound by Community rules in this particular area to ratify the Convention in the interests of the Community.

The rapporteur's position

Your rapporteur fully endorses the objective of the Convention. Nevertheless, after having reviewed the matter, he would make two specific observations.

The first is that although the Convention touches on the visa requirement, since Article 6(6) thereof stipulates that '*For the purpose of shore leave seafarers shall not be required to hold a visa*' it does not entail any amendment of the corresponding Community instrument. The instrument in question, namely Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement expressly states in Article 4(1)(b) that '*A Member State may provide for exceptions from the visa requirement [...] as regards [...] (b) civilian air and sea crew*'. The question which your rapporteur poses is whether, under these circumstances, Member States actually need the Council's authorisation to ratify ILO Convention No 185. France clearly does not share that view since it has decided on its own initiative to ratify the Convention, which will enter into force in February 2005¹. In any case, the symbolic value which the Commission would like to confer on such authorisation, and which would be strengthened by simultaneous ratification by all the Member States, confirming in the eyes of the rest of the world 'the importance the Community attaches to the Convention'², has now been greatly diminished as the Council has decided to remove Article 2 of its Decision.

Secondly, your rapporteur can only express his surprise at the decision taken a year ago to enter biometric data on seafarers' identity cards. This issue has given rise to numerous questions and continues to do so.

Article 3(8) of the Convention stipulates that seafarers' identity documents shall include, in addition to particulars such as name, sex, date and place of birth, nationality, special physical characteristics, a digital or original photograph and signature, '*a template or other representation of a biometric of the holder which meets the specification provided for in Annex I.*'

Annex I then defines this template for seafarers' identity documents. As regards the biometric data, the model chosen is a '*biometric template based on a fingerprint printed as numbers in a bar code conforming to a standard to be developed.*'³ However, in a document published in November last by the committee set up under Article 6 of Regulation 1683/95 laying down a

¹ See <http://www.ilo.org/ilolex/french/convdisp1.htm>. Article 12 of the Convention states:

'1. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.

2. It shall come into force six months after the date on which the ratifications of two Members have been registered with the Director-General.'

² See COM(2004)530 final, Explanatory Memorandum, paragraphs 17 and 23.

³ Annex I, III (k) of Convention No 185.

uniform format for visas, your rapporteur read on the subject of the practical feasibility of including biometric identifiers in standardised visas and residence permits for third country nationals and in passports and travel documents issued by the Member States, that *'owing to its limited storage capacity, the bar code does not comply with International Civil Aviation Organisation (ICAO) standards'*, which constitute the reference point on that subject. Moreover, a note from the delegation of a Member State to the working party on visas draws attention to the fact that the biometric rules applied to seafarers' identity documents, as conceived by the International Labour Organisation, are not consistent with ICAO standards, which had already been clearly established by ICAO's technical advisory group in Montreal in May 2004. However, in the *'proposal for a regulation laying down standards for security features and the use of biometric data in passports and other travel documents issued by Member States'*, the Council points out that the ICAO's specifications, in particular those contained in document 9303 concerning machine readable travel documents, will have to be taken into account.

It would appear, therefore, that there is a gap, at the technical level, between the rules applied to seafarers' identity documents on the basis of the ILO Convention and the rules applied to travel documents issued by Member States. This difference would logically entail having different equipment to manufacture and read one or other type of document. Your rapporteur would query the advisability of such measures as well as their financial implications. In his view, greater coherence would be desirable in such a complex and sensitive area.

Nevertheless, it is the Member States which bear responsibility for carrying out their obligations and assuming the financial implications of their decisions. On that point, therefore, your rapporteur sees no obstacle to ratification of the Convention.

PROCEDURE

Title	Proposal for a Council decision on authorising Member States to ratify in the interests of the Community the Seafarers' Identity Documents Convention of the International Labour Organization (Convention 185)	
References	COM(2004)0530 - C6-0167/2004 - 2004/0180(CNS)	
Legal basis	Article 300(3), first subparagraph, EC	
Basis in Rules of Procedure	Rules 51 and 83(7)	
Date of consulting Parliament	29.10.2004	
Committee responsible Date announced in plenary	LIBE 16.11.2004	
Committees asked for opinions Date announced in plenary	TRAN 16.11.2004	EMPL 16.11.2004
Not delivering opinions Date of decision	TRAN 29.9.2004	EMPL 20.9.2004
Enhanced cooperation Date announced in plenary		
Rapporteur Date appointed	Ioannis Varvitsiotis 5.10.2004	
Previous rapporteur(s)		
Simplified procedure Date of decision		
Legal basis disputed Date of JURI opinion	/	
Financial endowment amended Date of BUDG opinion	/	
Economic and Social Committee consulted Date of decision in plenary		
Committee of the Regions consulted Date of decision in plenary		
Discussed in committee	19.1.2005	1.2.2005
Date adopted	1.2.2005	
Result of final vote	for:	43
	against:	0
	abstentions:	0
Members present for the final vote	Alexander Nuno Alvaro, Alfredo Antoniozzi, Johannes Blokland, Mario Borghezio, Mihael Brejc, Kathalijne Maria Buitenweg, Michael Cashman, Giusto Catania, Charlotte Cederschiöld, Carlos Coelho, António Costa, Agustín Díaz de Mera García Consuegra, Rosa Díez González, Antoine Duquesne, Kinga Gál, Patrick Gaubert, Adeline Hazan, Livia Járóka, Timothy Kirkhope, Ewa Klamt, Ole Krarup, Stavros Lambrinidis, Henrik Lax, Edith Mastenbroek, Jaime Mayor Oreja, Hartmut Nassauer, Bogdan Pęk, Martine Roure, Inger Segelström, Manfred Weber, Stefano Zappalà, Tatjana Ždanoka	
Substitutes present for the final vote	Frederika Brepoels, Panayiotis Demetriou, Gérard Deprez, Camiel Eurlings, Ignasi Guardans Cambó, Sophia in 't Veld, Sylvia-Yvonne Kaufmann, Vincent Peillon, Herbert Reul, Marie-Line Reynaud, Jan	

	Zahradil
Substitutes under Rule 178(2) present for the final vote	
Date tabled – A6	10.2.2005 A6-0037/2005
Comments	...