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**NOTE**

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from :            Presidency  
to :                delegations

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Subject :        Setting of the minimum age for recording and storing facial images and  
                      fingerprints in the chip of a passport

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The European Union is endeavouring to follow a consistent approach to the use of biometric identifiers.

By Council Regulation No 2252/2004 of 13 December 2004, in accordance with ICAO provisions, it therefore decided on biometric storage of a facial image and two fingerprints. The date on which the use of biometric identifiers will come into force depends on a final decision by the Article 6 Committee (Regulation (EC) No 1683/95).

Possible exceptions and the setting of a minimum age for recording biometric data in the visa information system are being discussed during examination of the proposal of 31 May 2006 for a Regulation of the European Parliament and of the Council amending the Common Consular Instructions on visas for diplomatic and consular posts in relation to the introduction of biometrics, including provisions on the organisation of the reception and processing of visa applications<sup>1</sup>.

For residence permits, the discussion of possible exceptions will have to take place during examination of the amended proposal of 10 March 2006 for a Council Regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals<sup>2</sup>.

## **1. Facial image**

As regards the biometric storage of facial images, the ICAO has issued guidelines on how photographs should look (size, quality, etc.). People such as small children, or adults who cannot fulfil the criteria as a result of a deformity or an accident, will not normally be suitable subjects for biometric face recognition by means of a photograph.

## **2. Fingerprints**

Scientific tests have confirmed that the papillary ridges on the fingers are not sufficiently developed to allow biometric capture and analysis until the age of six. Even then, account must be taken of the fact that major changes take place as children grow and this will entail considerable expense in the form of computer programs. When checks are carried out, the software must make allowance for age-related changes, or else no match will be possible. The same procedure will be necessary for face recognition.

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<sup>1</sup> COM(2006) 269 final.

<sup>2</sup> COM(2006) 110 final.

The problem of storing biometric data from children emerged particularly clearly from a study conducted by the Netherlands Ministry of the Interior and Kingdom Relations. The study was distributed as room document No 17/05 at the meeting of the Visa Working Party on 10 and 11 May 2005. The facial changes taking place up to the age of 12 are so marked that face recognition is not possible without highly sophisticated software and the considerable expense which goes with it.

Children over the age of six do have measurable fingerprints, but these are subject to particularly marked changes as the child grows, with the result that special algorithms must be used in order to calculate the changes and arrive at a result which is as accurate as for an adult.

### **3. Solution proposed for setting the minimum age**

In order to achieve as uniform a procedure as possible in the European Union, the solution for the two types of biometrics should be as follows:

#### **Scanning of the facial image**

**0 to 12 years of age:** the Member State may itself decide on storage in the chip, on the basis of national legislation

**from 12 years of age:** **compulsory**

#### **Scanning of fingerprints**

**from 12 years of age:** **compulsory**

**up to 12 years of age:** storage is permissible if provided for by national legislation

The proposed solution was discussed at the meeting of the Visa Working Party on 13 and 14 June 2006, when it proved impossible to arrive at a consensus.

#### **4. Exception for people who cannot provide usable fingerprints, because of physical circumstances**

In the case of adults, it should be borne in mind that, in a small percentage of the population, the papillary ridges are undeveloped and it is therefore not possible to take fingerscans. In addition, account should be taken of those who, because of injuries, are physically unable to provide fingerprints.

##### **Solution for people who are physically unable to provide a biometric identifier**

A general obligation to provide a facial image and fingerprints, together with exemption from the obligation for any identifier which cannot be provided on physical grounds. The reason for the exemption should be noted in the chip of the passport/residence permit or in the VIS.

The Working Party on Frontiers (False Documents) and the Visa Working Party are requested to assess the solutions here proposed by the Presidency.