



Procedure file

| Basic information | |
|--|---------------------|
| COD - Ordinary legislative procedure (ex-codecision procedure) Regulation European passport and travel documents: standards for security features and biometrics Amending Regulation (EC) No 2252/2004 2004/0039(CNS) Subject 7.10.02 Schengen area, Schengen acquis 7.10.04 External borders crossing and controls, visas 7.30 Police, judicial and customs cooperation in general | Procedure completed |

| Key players | | | |
|-------------------------------|---|----------------------|------------|
| European Parliament | Committee responsible | Rapporteur | Appointed |
| | LIBE Civil Liberties, Justice and Home Affairs | | 31/01/2008 |
| Council of the European Union | Council configuration | Meeting | Date |
| | General Affairs | 2938 | 27/04/2009 |
| European Commission | Commission DG | Commissioner | |
| | Justice and Consumers | BARROT Jacques | |

| Key events | | | |
|------------|---|---|---------|
| 17/10/2007 | Legislative proposal published | COM(2007)0619 | Summary |
| 25/10/2007 | Committee referral announced in Parliament, 1st reading | | |
| 08/12/2008 | Vote in committee, 1st reading | | Summary |
| 14/12/2008 | Committee report tabled for plenary, 1st reading | A6-0500/2008 | |
| 13/01/2009 | Debate in Parliament |  | |
| 14/01/2009 | Results of vote in Parliament |  | |
| 14/01/2009 | Decision by Parliament, 1st reading | T6-0015/2009 | Summary |
| 27/04/2009 | Act adopted by Council after Parliament's 1st reading | | |
| 06/05/2009 | Final act signed | | |
| 06/05/2009 | End of procedure in Parliament | | |
| 06/06/2009 | Final act published in Official Journal | | |

| Technical information | |
|-----------------------|----------------|
| Procedure reference | 2007/0216(COD) |

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| Procedure type | COD - Ordinary legislative procedure (ex-codicedision procedure) |
| Procedure subtype | Legislation |
| Legislative instrument | Regulation |
| | Amending Regulation (EC) No 2252/2004 2004/0039(CNS) |
| Legal basis | EC Treaty (after Amsterdam) EC 062-p2-aa |
| Stage reached in procedure | Procedure completed |
| Committee dossier | LIBE/6/55180 |

Documentation gateway

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|---|---|------------|------|---------|
| Legislative proposal | COM(2007)0619 | 18/10/2007 | EC | Summary |
| Document attached to the procedure | 52008XX0806(01) OJ C 200 06.08.2008, p. 0001 | 26/03/2008 | EDPS | Summary |
| Committee draft report | PE405.718 | 14/05/2008 | EP | |
| Amendments tabled in committee | PE407.735 | 18/06/2008 | EP | |
| Amendments tabled in committee | PE409.639 | 16/07/2008 | EP | |
| Amendments tabled in committee | PE416.253 | 03/12/2008 | EP | |
| Committee report tabled for plenary, 1st reading/single reading | A6-0500/2008 | 15/12/2008 | EP | |
| Text adopted by Parliament, 1st reading/single reading | T6-0015/2009 | 14/01/2009 | EP | Summary |
| Commission response to text adopted in plenary | SP(2009)693 | 11/02/2009 | EC | |
| Draft final act | 03606/2009/LEX | 06/05/2009 | CSL | |
| Follow-up document | COM(2013)0567 | 02/08/2013 | EC | Summary |

Additional information

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|----------------------|-------------------------|
| National parliaments | IPEX |
| European Commission | EUR-Lex |

Final act

[Regulation 2009/444](#)
[OJ L 142 06.06.2009, p. 0001](#) Summary

[Corrigendum to final act 32009R0444R\(01\)](#)
[OJ L 188 18.07.2009, p. 0127](#)

European passport and travel documents: standards for security features and biometrics

PURPOSE: to amend Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States in order to define exceptions for children of under 6 years of age and certain persons who are physically unable to provide to give fingerprints for travel documents.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

CONTENT: The Council adopted Regulation (EC) 2252/2004 on security standards and biometrics for passports and other travel documents issued by Member States in 2004 (see [CNS/2004/0039](#)) but this did not provide for any exceptions from the obligation to provide fingerprints.

At the time of the Commission proposal and the discussions on it in the European Parliament and the Council, no experiences with the use of biometric data for large scale applications in travel documents were available. During pilot projects of some Member States it appeared that

the fingerprints of children under the age of 6 seemed not to be of a sufficient quality for one-to-one verification of identity and were subject to significant change, making it difficult to check them during the entire period of validity of the passport.

For these reasons, a proposal has been made to amend Regulation 2252/2004/EC in order to dispense with the obligation to give fingerprints for children of under 6 years of age and persons who are physically unable to do so.

The proposal also introduces the principle of 'one passport-one person' as an additional security measure, recommended by the International Civil Aviation Organisation (ICAO). This would ensure that the passport and the biometric features are only linked to the person holding the passport and could help combat child trafficking by requiring children to have their own passport with their own biometric identifiers.

Most Member States are already following this principle as it is recommended by the ICAO. Therefore, no additional costs will be incurred for these Member States.

This proposal will have no financial impact on the Community's budget.

European passport and travel documents: standards for security features and biometrics

OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the proposal for a Regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

On 18 October 2007, the European Commission submitted a Proposal for a Regulation aiming at amending Regulation (EC) No 2252/2004. The European Data Protection Supervisor (EDPS) was not consulted about this proposal, despite the Commission's legal obligation to do so. Therefore, the EDPS has decided to issue an opinion at his own initiative.

In view of harmonising exceptions to the biometrics passport, the proposal has added the following measures: (i) children under the age of 6 years are exempted from the obligation to give fingerprints; and (ii) persons who are physically unable to give fingerprints should be also exempted from this requirement. Additionally the proposal introduces the obligation of 'one person-one passport' which is described as a supplementary security measure and additional protection for children.

The EDPS also welcomes the introduction of exemptions based on the age of the person or his/her ability to give fingerprints, as well as the effort to adopt a coherent approach in different instruments dealing with similar issues. However, the EDPS still considers these exemptions unsatisfactory, as they fail to address all the possible and relevant issues triggered by the inherent imperfections of biometric systems, and more specifically those related to children and the elderly.

The EDPS considers that the age limit for children should be defined by a consistent and in-depth study which is to identify properly the accuracy of the systems obtained under real conditions, and to reflect the diversity of the data processed. This study should be executed by a European institution with clear expertise and adequate facilities in this field. Before the age limit is defined by the study and in order to avoid any hazardous implementation, the provisional limit should correspond to those already adopted for large populations, either in the Eurodac system or the US Visit programme (age of 14 years), or be slightly lower since only in the context of a verification process. An age limit for elderly, which can be based on similar experiences (US Visit: age 79), should be introduced as an additional exemption. Such exemptions should in no case stigmatise or discriminate the individuals concerned. Moreover, the principle of 'one person-one passport' should be applied only to children above the relevant age limit.

In view of the existing diversity under national laws as to documents required for the issuing of passports, the Commission should propose additional measures to harmonise the production and the use of such 'breeder' documents. The Commission should also propose further harmonisation measures in order to implement only the decentralised storage of biometric data collected for Member States' passports.

Lastly, the Commission should propose common rates for the enrolment and matching process completed by fallback procedures together with the Member States' authorities.

European passport and travel documents: standards for security features and biometrics

The Committee on Civil Liberties, Justice and Home Affairs adopted a report drafted by Carlos COELHO (EPP-ED, PT) and made some amendments to the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

The main amendments 'made in 1st reading of the codecision procedure' are as follows :

Children under the age of 12 years: the committee specified that Children under the age of 12 years (rather than 6) must be exempt from the requirement to give fingerprints. The age limit of 12 years is provisional. The Commission's report referred to below shall contain a review of the age limit, if necessary accompanied by a proposal to amend the age limit. Member States which in their national law, adopted before the date of entry into force of the Regulation, provide for an age limit below 12 years may apply that limit during a transitional period until 4 years after that date. However, the age limit in the transitional period may not be below 6 years of age.

Not later than 3 years after entry into force of the Regulation, the Commission shall submit a report based on a large scale and in-depth study carried out by an independent authority and supervised by the Commission, which shall examine the reliability and technical feasibility, including through an evaluation of the accuracy of the systems in operation, of using the fingerprints of children under the age of 12 for identification and verification purposes, including a comparison of the false rejection rates occurring in each Member State and - based on the results of that study - an analysis of the need for common rules regarding the matching process. If necessary, the report shall be accompanied by proposals to adapt the Regulation.

Children travelling alone: Members specified that The Commission shall present a report on the requirements for children travelling alone or accompanied, crossing the external borders of the Member States not later than 3 years after entry into force of the Regulation, and propose, if necessary, appropriate initiatives in order to ensure a common approach regarding the rules on the protection of children crossing the external borders of the Member States.

Fingerprints: passports and travel documents shall include a highly secure storage medium which shall contain a facial image. Member States shall also include two fingerprints taken flat in interoperable formats. The data shall be secured and the storage medium shall have sufficient capacity and capability to guarantee the integrity, the authenticity and the confidentiality of the data.

Furthermore, where fingerprinting of the designated fingers is temporarily impossible, Member States shall allow the fingerprinting of the other fingers. Where it is also temporarily impossible to take fingerprints of any of the other fingers, they may deliver a temporary passport having a validity of 12 months or less.

Respect for human rights: Members stated that the biometric identifiers shall be taken by qualified and duly authorised staff of the national authorities responsible for issuing passports and travel documents.

Member States shall collect biometric identifiers from the applicant respecting the rights laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child. Member States shall ensure that appropriate procedures guaranteeing the dignity of the person concerned are in place in the event of there being difficulties in enrolling.

Additional technical specifications: in accordance with international standards, including in particular the recommendations of the International Civil Aviation Organisation, additional technical specifications for passports and travel documents relating to the following must be established in accordance with the relevant comitology procedure:

- additional security features and requirements including enhanced anti-forgery, counterfeiting and falsification standards;
- technical specifications for the storage medium of the biometric features and their security, including prevention of unauthorised access;
- requirements for quality and common technical standards for the facial image and the fingerprints.

Application: Member States shall apply this Regulation:

- as regards the facial image: at the latest 18 months;
- as regards fingerprints: at the latest 36 months following the adoption of the measures referred to above. However, the validity of passports and travel documents already issued shall not be affected.

Use of the data: biometric data shall be collected and stored in the storage medium of passports and travel documents with a view to delivering such documents. For the purpose of this Regulation the biometric features in passports and travel documents shall only be used for verifying: the authenticity of the document; and the identity of the holder by means of directly available comparable features when the passport or other travel documents are required to be produced by law.

The checking of the additional security features shall be carried out without prejudice to Article 7(2) of Regulation (EC) No 562/2006 (Schengen Borders Code). The failure of the matching in itself shall not affect the validity of the passport for the purpose of the crossing of external borders.

Breeder documents: lastly, the committee felt that, if passports and travel documents are to be secure, it is vital that there should be a high level of confidence in the process of collecting the biometric data that are to be inserted in those documents, and it would be desirable to have common minimum standards for collecting these data so as to guarantee their security and reliability. It appended a draft joint Statement by the European Parliament and the Council concerning the need to increase the security of passports and travel documents by using secure breeder documents. It stated that the Council must prepare a questionnaire for the Member States in order to be able to compare the procedures and which documents are required in each Member State in order to issue a passport or travel document. This analysis should assess the possible need for the creation of common principles or guidelines on best practice in this area.

European passport and travel documents: standards for security features and biometrics

The European Parliament adopted by 594 votes to 51 with 37 abstentions, a legislative resolution amending the proposal for a regulation of the European Parliament and of the Council amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

The report had been tabled for consideration in plenary by Carlos COELHO (EPP-ED, PT) on behalf of the Committee on Civil Liberties, Justice and Home Affairs.

The amendments were the result of a compromise between Parliament and Council and substantially follow the amendments made in committee. The main amendments - adopted under 1st reading of the codecision procedure - were as follows:

Children under the age of 12 years: children under the age of 12 years (rather than 6) must be exempt from the requirement to give fingerprints. The age limit of 12 years is provisional. The Commission's report referred to below shall contain a review of the age limit, if necessary accompanied by a proposal to amend the age limit. Member States which in their national law provide for an age limit below 12 years may apply that limit during a transitional period until 4 years after entry into force of the Regulation. However, the age limit in the transitional period may not be below 6 years of age.

Not later than 3 years after entry into force of the Regulation, the Commission shall submit a report based on a large scale and in-depth study carried out by an independent authority and supervised by the Commission, which shall examine the reliability and technical feasibility, including through an evaluation of the accuracy of the systems in operation, of using the fingerprints of children under the age of 12 for identification and verification purposes, including a comparison of the false rejection rates occurring in each Member State and - based on the results of that study - an analysis of the need for common rules regarding the matching process. If necessary, the report shall be accompanied by proposals to adapt the Regulation.

Children travelling alone: the Commission shall present a report on the requirements for children travelling alone or accompanied, crossing the external borders of the Member States not later than 3 years after entry into force of the Regulation, and propose, if necessary, appropriate initiatives in order to ensure a common approach regarding the rules on the protection of children crossing the external borders of the Member States.

Fingerprints: passports and travel documents shall include a highly secure storage medium which shall contain a facial image. Member States shall also include two fingerprints taken flat in interoperable formats. The data shall be secured and the storage medium shall have sufficient capacity and capability to guarantee the integrity, the authenticity and the confidentiality of the data.

Furthermore, where fingerprinting of the designated fingers is temporarily impossible, Member States shall allow the fingerprinting of the other fingers. Where it is also temporarily impossible to take fingerprints of any of the other fingers, they may deliver a temporary passport having a validity of 12 months or less.

Respect for human rights: Members stated that the biometric identifiers shall be taken by qualified and duly authorised staff of the national authorities responsible for issuing passports and travel documents.

The collection of biometric identifiers from the applicant must respect the rights laid down in the European Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child. Appropriate procedures guaranteeing the dignity of the person concerned must be in place in the event of there being difficulties in enrolling.

Additional technical specifications: in accordance with international standards, including in particular the recommendations of the International Civil Aviation Organisation, additional technical specifications for passports and travel documents relating to the following must be established in accordance with the relevant comitology procedure:

- additional security features and requirements including enhanced anti-forgery, counterfeiting and falsification standards;
- technical specifications for the storage medium of the biometric features and their security, including prevention of unauthorised access;
- requirements for quality and common technical standards for the facial image and the fingerprints.

Application: the Regulation will apply

- as regards the facial image: at the latest 18 months;
- as regards fingerprints: at the latest 36 months following the adoption of the measures referred to above. However, the validity of passports and travel documents already issued shall not be affected.

Use of the data: biometric data shall be collected and stored in the storage medium of passports and travel documents with a view to delivering such documents. For the purpose of this Regulation the biometric features in passports and travel documents shall only be used for verifying: the authenticity of the document; and the identity of the holder by means of directly available comparable features when the passport or other travel documents are required to be produced by law.

The checking of the additional security features shall be carried out without prejudice to Article 7(2) of Regulation (EC) No 562/2006 (Schengen Borders Code). The failure of the matching in itself shall not affect the validity of the passport for the purpose of the crossing of external borders.

Breeder documents: a joint Statement by the European Parliament and the Council concerning the need to increase the security of passports and travel documents by using secure breeder documents is appended to the resolution. It underlined that the objective of enhancing the security of passports may be undermined if passports are issued on the basis of unreliable "breeder documents". The passport in itself is only one link of a security chain starting from the presentation of the breeder documents, to the enrolment of biometric data and ending with the matching at the border check points. This chain will only be as secure as its weakest link. The Council will must prepare a questionnaire for the Member States in order to be able to compare the procedures and which documents are required in each Member State in order to issue a passport or travel document. This analysis should assess the possible need for the creation of common principles or guidelines on best practice in this area.

Issuing of passports and travel documents as individual documents: this will be implemented at the latest 3 years after entry into force of the legislation. However, the initial validity for the holder of the document shall not be affected.

European passport and travel documents: standards for security features and biometrics

PURPOSE: to amend Council Regulation (EC) No 2252/2004 in order to define exceptions for children under the age of six years and certain persons who are physically unable to give fingerprints for travel documents.

LEGISLATIVE ACT: Regulation (EC) No 444/2009 of the European Parliament and of the Council amending Council Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

CONTENT: the adoption of this Regulation aims to update Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents (see [CNS/2004/0039](#)). The latter does not provide for any derogation with regard to the obligation to give fingerprints. However, experience from tests showed that the fingerprints of children under the age of 6 seemed not to be of a sufficient quality for one-to-one verification of identity. Furthermore, they are subject to significant changes which make it difficult to check them during the entire period of validity of the passport or travel document.

Following a first reading agreement, the adopted Regulation amends Regulation (EC) No 2252/2004 in order to exempt from the requirement to give fingerprints:

- children under the age of 12 years; and
- persons where fingerprinting is physically impossible.

Where fingerprinting of the designated fingers is temporarily impossible, Member States shall allow the fingerprinting of the other fingers. Where it is also temporarily impossible to take fingerprints of any of the other fingers, they may issue a temporary passport having a validity of 12 months or less.

The harmonisation of exceptions to the general obligation to provide fingerprints is essential in order to maintain common security standards and with a view to simplifying border controls.

The age limit of 12 years is provisional. The Commission must report by 26 June 2012 with a review of the age limit, if necessary accompanied by a proposal to amend the age limit. Member States which, in their national law adopted before 26 June 2009 provide for an age limit below 12 years may apply that limit during a transitional period until 26 June 2013. However, the age limit during the transitional period may not be below 6 years of age.

Assessment report: in addition to the aforementioned elements on the study of the relevance of fingerprints on passports for children under the age of 12 years, the Commission shall, not later than 26 June 2012, submit a report based on a large scale and in-depth study carried out by an independent authority and supervised by the Commission, which shall examine the reliability and technical feasibility, including through an evaluation of the accuracy of the systems in operation, of using the fingerprints of children under the age of 12 for identification and verification purposes, including a comparison of the false rejection rates occurring in each Member State and, based on the results of that study, an analysis of the need for common rules regarding the matching process. If necessary, the report shall be accompanied by proposals to adapt the Regulation.

That report shall also assess the requirements for children travelling alone or accompanied, crossing the external borders of the Member States and propose, if necessary, appropriate initiatives in order to ensure a common approach regarding the rules for the protection of children crossing the external borders of the Member States.

One person-one passport: the Regulation also introduces the principle of 'one person-one passport', as recommended by the International Civil Aviation Organisation (ICAO), in order to render passports and travel documents more secure and establish a more reliable link between the holder and the passport or travel document, thus making an important contribution to ensuring that passports and travel documents are protected against fraudulent use.

Additional technical specifications: other than the fact that passports shall include a highly secure storage medium which shall contain a facial image and two fingerprints, additional specifications should be added as recommended by the International Civil Aviation Organisation regarding: (i) enhanced anti-forgery, counterfeiting and falsification standards; (ii) technical specifications for the storage medium of the biometric features and their security, including prevention of unauthorised access; (iii) requirements for quality and common technical standards for the facial image and the fingerprints.

Territorial provisions: Norway, Iceland, Switzerland and Liechtenstein shall be associated with the implementation of the Regulation pursuant to the bilateral agreements concluded with the EU on the Schengen acquis. The United Kingdom and Ireland shall not participate in the adoption of the text, pursuant to the protocol annexed to the EU Treaty and subsequent decisions. For the same reasons, Denmark shall not participate in the adoption of the text but may decide within a period of 6 months if it will transpose or not this text into its national law.

ENTRY INTO FORCE: 26 June 2009.

APPLICATION: the Regulation provides for a differentiated application according to the integration of the technical specifications. In principle, the establishment of a biometric passport shall take place by 26 June 2012, unless there are specifications to the contrary. Nevertheless, the validity of previously issued passports and travel documents will not be affected.

European passport and travel documents: standards for security features and biometrics

This Commission report responds to the requirement in Regulation (EC) No 444/2009 that the Commission should present a report on the requirements for children travelling alone or accompanied, crossing the external borders of the Member States not later than 26 June 2012 (the date after which no family or other group passports can any longer be issued).

The reports main conclusions are as follows:

- One person one passport: the implementation of this principle does not seem to pose problems. Practitioners and stakeholders consider that it has made travelling of children safer and the border crossings faster, insofar as it is now possible for the border guards to actually identify the child as being the person on the passport, which was difficult when the child was travelling with a family passport. The Commission stands ready to further discuss with Member States and stakeholders the pros and cons of the inclusion in the passport of the name(s) of the legal guardian(s) in the passports of children.

- Legislation and practices at EU level: certain stakeholders consider that more detailed guidelines and best practice examples could facilitate the work at the border crossing points. On the other hand, it would be difficult to capture in formal rules and procedures the range of situations faced by the border guards. The Commission will consider adjusting the Practical Handbook for Border Guards and the Visa Code Handbook and clearly spelling out that the child's best interests must be a primary consideration.

- Legislation and practices at national level: the national legislation and practices regarding parental authorisation are rather diverse in the Member States. At the same time, despite the limited harmonisation in the area, the practices employed by the border guards with respect to controls of children are relatively similar. The Commission and Member States should follow the discussions on the possible development of a model "Consent to travel" form which was put forward by the Permanent Bureau of the Hague Conference on Private International Law and may be further considered by the ICAO.

Due to the different provisions of the Member States particularly regarding the need for a parental authorisation at the border, providing reliable information to the public is crucial. The Commission is ready to upgrade its europa.eu/travel site on the basis of the inputs of the Member States. Member States should also considerably improve the quality of information distributed to the public on the requirements for children crossing borders.

Member States are encouraged to develop appropriate national coordination mechanisms and to inform the border crossing points about these mechanisms so that border guards know whom to contact, in which situation and what the responsibilities between the different actors are.

Lastly, few statistical data exist concerning children detected to be at risk at the borders (or on border crossing by children in general) as well as concerning child trafficking and abduction.