



Aan  
Van

Staatssecretaris BZK  
DGOO

Contactpersoon

10.2.e

10.2.e

Datum

2 mei 2018

Kenmerk

2018-0000280200

# nota

BNC Fiche: Biometrie op ID-kaarten

## Aanle ding/probleemstelling

Onlangs is de verordening van de Europese Commissie om voor reis- en identiteitsbewijzen een kwaliteitsnorm in te stellen gepresenteerd. Daarin wordt onder andere geregeld dat de opname van vingerafdrukken verplicht wordt voor de ID-kaarten. BZK heeft hiervoor in samenwerking met J&V (voor het deel vreemdelingendocumenten van partners van EU-burgers) een BNC-Fiche opgesteld. Dit wordt nog formeel interdepartementaal afgestemd via de Coco en de ministerraad en zal vervolgens aan de Kamer worden verzonden.

## Advies/actie

Gaarne instemmen met bijgevoegd BNC-fiche. Hierin is de volgende lijn gehanteerd:

BZK zal de Commissie bevragen over de proportionaliteit van vingerafdrukken. Vanwege de hoge kosten en minimale baten zet Nederland in op het voorkomen van eerder uitfasen van documenten die wel reeds aan de ICAO-kwaliteitsnorm voldoen maar nog geen vingerafdrukken bevatten.

## Betrokken BZK onderdelen

DIO, RVIG, KIEM, FEZ, CZW

## Toelichting

Met de verordening wil de Commissie af van kwetsbare reis- en identiteitsdocumenten. Bij diverse lidstaten zijn nog te veel documenten in omloop die eenvoudig te vervalsen zijn. Het betreft ID-kaarten en vreemdelingendocumenten waarmee ook gereisd kan worden, en dus gevoelig zijn voor fraude. ID-kaarten vallen onder de verantwoordelijkheid van BZK, vreemdelingendocumenten vallen onder de verantwoordelijkheid van JenV.

Voor ID-kaarten worden de ICAO-kwaliteitsnorm en de opname van vingerafdrukken verplicht gesteld. Nederland is voorstander van de verordening voor wat betreft het stellen van kwaliteitsnormen. De Nederlandse ID-kaarten voldoen overigens al aan de ICAO-norm. Vingerafdrukken worden echter niet (meer) afgenomen. De verordening stelt een termijn (vijf jaar) voor het uitfasen voor documenten die niet aan de norm voldoen en geen vingerafdrukken bevatten. Nederland moet (als de verordening in 2019 van kracht gaat) vijf miljoen ID-kaarten eerder uitfasen. Dit kost Nederland maximaal 250 miljoen (vijf miljoen maal de prijs van een ID-kaart a €50,-). De burger kan hiervan een proportioneel deel betalen, al naar gelang de geldigheid

van de uit te faseren kaart. Desalniettemin is het resterende bedrag een hoge kostenpost met lage baten. Tot op heden worden vingerafdrukken in paspoorten niet uitgelezen. Ook is er in Europa enkel een wettelijke basis voor het uitlezen aan de grenzen van het Schengen-gebied. Slechts in enkele gevallen kan de Schengen-grens gepasseerd worden met een ID-kaart (bv Turkije en het VK). Zodoende zal, zelfs als men daadwerkelijk overgaat op het uitlezen van vingerafdrukken bij grenscontrole (tweede lijn), het weinig voorkomen dat men bij een ID-kaart de vingerafdrukken controleert.

Vervroegd uitfaseren heeft voor Nederland wel twee bijkomende (positieve) effecten: als eerste kent de uitgifte van ID-kaarten (en paspoorten) een dip<sup>1</sup> waarbij in sommige jaren 100.000 ID-kaarten worden uitgegeven, en in andere jaren 1.000.000. Als al in 2019 gestart kan worden met uitfaseren, vermindert dit de dip. De timing moet goed zijn, veel later starten zal het effect juist vergroten. Als tweede voordeel kunnen kaarten met eID functionaliteit veel sneller uitgerold worden omdat immers het streven is in 2019 te kunnen starten met de uitgifte van de eNIK. Dit is echter onvoldoende om de hoge kosten te rechtvaardigen.

U heeft eerder aangegeven dat u met betrekking tot de opname van vingerafdrukken een neutrale positie inneemt. De NCTV heeft in het kader van de afstemming over het fiche aangegeven voorstander te zijn. Inmiddels is de eerste raadsvergadering bijeenkomst in Brussel geweest. Daarbij is gebleken dat de andere lidstaten geen opmerkingen hebben gemaakt met betrekking tot de privacy. Nederland heeft het privacypunt wel ingebracht als risicopunt. In dit verband is relevant dat de impactanalyse die de Commissie heeft laten maken stelt dat de ICAO-norm en de facto Nederlandse norm en praktijk, effectief is en verdergaande voorstellen (dus met de vingerafdruk), in termen van meer veiligheid, niet of nauwelijks meer opleveren. Niettemin kiest de Commissie in haar voorstel voor opname van de vingerafdruk. Het argument daarvoor is de ID-kaart gelijk te trekken in functionaliteit aan het paspoort. Voor de andere lidstaten is dat een sterk argument. Nederland heeft een historie met vingerafdrukken op de ID-kaart en het opnieuw opnemen zal naar verwachting politiek voor vragen en weerstand zorgen. Het is opportuun vragen te stellen over de proportionaliteit van vingerafdrukken. Zeker nu van daadwerkelijk uitlezen van vingerafdrukken op paspoorten na al die jaren nog steeds geen sprake is.

Het lijkt echter gezien het krachtenveld niet voor de hand liggend dat het afnemen van vingerafdrukken uit de verordening gehaald kan worden.

Het fiche is reeds intern en extern afgestemd. JenV's eerste inbreng is verwerkt, zij hebben aangegeven een tweede deel middels de BNC bespreking in te brengen. FEZ hecht er aan kanttekeningen te plaatsen bij dit voorstel en de mogelijke financiële gevolgen. Er zijn aanzienlijke financiële gevolgen voor BZK indien er toch sprake is van een korte invoeringstermijn. Die kosten zijn niet gedekt. En een claim in dat geval bij het ministerie van Financiën wordt niet als zeer kansrijk ingeschat.

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<sup>1</sup> Deze volgt uit de overstap op de geldigheidsduur van vijf naar tien jaar

Politieke context  
**reeds toegelicht**

Communicatie  
**N.v.t.**

**Datum**  
2 mei 2018  
**Kenmerk**  
2018-0000280200

## INSTRUCTIE RAADSWERKGROEP GRENZEN, DATUM: 4 MEI 2018

### Agendapunt 2

- 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.

### Essentie NL positie

#### ID-kaarten

- NL is positief over het voorstel om te komen tot veiliger reis- en identiteitsdocumenten en denken dat dit de veiligheid in Europa ten goede komt.
- NL is positief over het aannemen van de ICAO standaarden voor ID-kaarten
- NL is positief over het zo snel mogelijk vervangen van de documenten niet voldoen aan de ICAO standaard.
- NL is terughoudend met betrekking tot de opname van vingerafdrukken uit privacy en proportionaliteitsoverwegingen.
- In het parlement is reeds gesproken over een behandelvoorbehoud.
- NL is geïnteresseerd in de visie van de Commissie op mogelijke alternatieven

#### Vreemdelingendocumenten:

- PM

### Achtergrond/Toelichting

#### ID-kaarten:

- Gelet op het belang van controle aan de buitengrenzen en het faciliteren van het vrije verkeer van burgers acht Nederland het van groot belang dat alle lidstaten documenten uitgeven die veilig en betrouwbaar zijn en die goed herkenbaar zijn als Europese identiteitsdocumenten zowel voor grensbewakers als voor andere instanties die voor hun werkzaamheden deze documenten moeten controleren.
- Nederland is er voorstander van het zo snel mogelijk vervangen van de documenten niet voldoen aan de ICAO standaard.
- Met betrekking tot het voorstel om vingerafdrukken in identiteitsdocumenten op te nemen, brengt Nederland in herinnering dat bij de implementatie van de Paspoortverordening Nederland er abusievelijk vanuit is gegaan dat deze ook gold voor identiteitskaarten. In 2014 is in de Paspoortwet vastgelegd dat voor de Nederlandse identiteitskaart geen vingerafdrukken worden afgenomen.
- Nu opnieuw overgaan op het opnemen van vingerafdrukken is een beslissing die niet licht moet worden genomen. Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij opslag vingerafdrukken) in relatie tot het beoogde doel. De beperkte controle aan de buitengrenzen van vingerafdrukken tot op heden is daarbij relevant. Vooralsnog wordt wereldwijd (ook in de EU) ingezet op het gebruik van automatische gezichtsherkenning bij grenspassage. Het verbeteren van de kwaliteit en effectiviteit daarvan is naar Nederlands oordeel efficiënter dan inzetten op een additioneel biometrisch kenmerk dat in de praktijk niet wordt gebruikt.
- Als de opname van vingerafdrukken verplicht gaat worden zal de huidige Nederlandse ID-kaart niet voldoen aan de door de Commissie voorgestelde eisen. Die ID-kaarten waarop geen vingerafdrukken zijn opgenomen moeten dan binnen vijf jaar na het in werking treden van de verordening uitgefaseerd zijn. Gelet op de hoge kosten die daaruit voortvloeien en het gegeven dat controle nauwelijks plaatsvindt betwijfelt Nederland of het noodzakelijk om vingerafdrukken verplicht te stellen en als deze verplicht worden de ID-kaarten die deze niet hebben maar wel voldoen aan de ICAO standaard vervroegd uit te faseren.

#### Vreemdelingendocumenten:

- PM



10.2e

**Van:** 10.2e  
**Verzonden:** maandag 28 mei 2018 16:02  
**Aan:** 10.2e  
**CC:** 10.2e BD/DMB/TR&N  
**Onderwerp:** Instructie RWG grenzen Biometrie op IDkaarten  
**Bijlagen:** Instructie RWG Grenzen 29 mei IDkaarten 0.3.docx

Dag 10.2e

Zie de instructie voor morgen in de bijlage. Eventuele vragen hoor ik graag. Tot morgen!

10.2e

.....  
**Afd. Identiteit**  
**DG Overheids Organisatie**  
**Ministerie van Binnenlandse Zaken en Koninkrijksrelaties**  
Turfmarkt 147 | 2511 DP | Den Haag | Toren Zuid, 18e etage  
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.....

## **Agendapunt 2**

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

## **Essentie NL positie**

- NL is positief over het voorstel om te komen tot veiliger reis- en identiteitsdocumenten en denken dat dit de veiligheid in Europa ten goede komt.

### **Behandelvoorbehoud**

- NL plaatst algemeen en parlementair voorbehoud.
- De Tweede kamer (Middendorp) heeft aangekondigd vermoedelijk een behandelingsvoorbehoud te willen voor deze verordening.
- Dat betekent dat het Nederlandse standpunt eerst in de Kamer moet worden besproken alvorens Nederland in Brussel standpunten kan innemen

### **Grondslag**

- Nederland plaatst vraagtekens bij het gebruik van de rechtsgrondslag voor de verordening
- De commissie baseert deze op artikel 21 tweede lid VWEU
- Deze bepaling is niet van toepassing wanneer elders in het VWEU een specifiekere bevoegdheid staat.
- Artikel 77, lid 3, VWEU zou hier de aangewezen rechtsgrondslag zijn.
- Nederland verzoekt dat de juridische dienst van de commissie hierover een notitie opstelt

### **ID-kaarten**

- NL is positief over het aannemen van de ICAO standaarden voor ID-kaarten
- NL is positief over het zo snel mogelijk vervangen van de documenten niet voldoen aan de ICAO standaard.
- Nederland is tegenstander van het vervroegd uitfasen van documenten die al wel voldoen aan de ICAO standaard
- NL is terughoudend met betrekking tot de opname van vingerafdrukken uit proportionaliteitsoverwegingen. (omdat het privacy bedreigt, duur is en bovendien niet wordt gebruikt.)

### **Vreemdelingendocumenten:**

- Nederland heeft een positieve grondhouding ten aanzien van het voorstel van de Commissie dat een set minimeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers wordt gesteld conform de EU Verordening 1030/2002. In dit verband wordt wel uitgegaan dat er alleen een foto en geen vingerafdrukken worden opgenomen op het verblijfsdocument.
- Nederland steunt het voorstel dat een set minimeisen aan veiligheidskenmerken op verblijfsdocumenten van gezinsleden van EU-burgers die niet zelf EU-burger zijn wordt gesteld conform de vereisten van de EU Verordening 1030/2002 en 380/2008.

<b>Per artikel:</b>
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**Verordening****Opmerking NL****Eventuele toelichting****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;

In the Netherlands a drivers licence is a valid method of identification. However, they cannot be used for travel and therefore we assume they are not subject to this regulation. However we would like to verify this with the commission.

NL heeft een positieve grondhouding

(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.

NL heeft een positieve grondhouding.

**CHAPTER II****NATIONAL IDENTITY CARDS****Article 3****Security**

standards/format/specifications

(1) Identity cards issued by Member States shall be produced in ID-1

The Netherlands supports the acceptance of the ICAO 9303 standard. The Netherlands is already

Duitsland heft voor zover bekend ook geen

format and shall comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015).

(2) The document title ('Identity card') shall appear in the official language or languages of the Issuing Member State and at least one other official language of the Institutions of the Union.

(3) 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 formats.

(4) 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

compliant with the ICAO standards.

In the Netherlands, there is a growing sense that the mandatory registration of sex is problematic. At the moment we register sex for both passports and ID-cards, as they are mandatory for ICAO standards. We are interested in the possibilities of an exception on the ICAO standards. In light of article 10(1) which allows for citizens to alter and erase information the possible deletion of their sex is to be expected.

The Netherlands is already compliant.

When fingerprints became mandatory on passports, the Netherlands put them on ID-cards as well, reasoning they too are travel documents. However, when privacy-advocates fought this in court they won as the EU provided no legal basis for fingerprints on ID-cards. After this the fingerprints were not only omitted from ID-cards, a passage was included in the law as well; stating no fingerprints would be put on ID-cards.

It is not an easy step to once again advise Dutch parliament to make fingerprints mandatory. It does not help that up until now fingerprints aren't used for verification and border control is looking towards automated facial recognition.

The commission hasn't given a reason to include fingerprints other than to bring them up to the same functionality as passports. The Netherlands is not in favor of adding fingerprints as the practical use in passports is as of yet untested, they will force the Netherlands to phase out documents which will result in high cost.

The Netherlands suggests to put the fingerprints in a different article, allowing for differentiating in phase-out period between documents that meet ICAO standards and those that have fingerprints. Furthermore the Netherlands proposes fingerprints should be made optional and not mandatory

The Netherlands is already compliant.

sekseregistratie. Het is de verwachting dat zij om een uitzondering zullen vragen. Nederland kan daar dan bij aansluiten.

provided for in the Commission  
Implementing Decisions adopted in  
accordance with Article 2 of Regulation  
(EC) 1030/2002.

(5) The following persons shall be  
exempt from the requirement to give  
fingerprints:

(a) children under the age of 12 years;  
(b) persons whose fingerprinting is  
physically impossible.

(6) Member States may enter details  
and observations for national use as  
required in the light of their national  
provisions.

(7) 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 not interfere with the  
storage medium referred to in  
paragraph 3.

(8) Where Member States store data  
for electronic services such as e-  
government and e-business in the  
identity cards, the national data shall  
be physically or logically separated  
from the biometric data referred to in  
paragraph 3.

(9) Where Member States add national  
security features to the identity cards,  
the cross-border interoperability of the  
identity cards and the efficiency of the  
minimum security standards shall not  
be diminished.

(10) Identity cards shall have a  
maximum period of validity of 10  
years. Derogations may be provided  
for specific age groups.

#### Article 4

##### Collection of biometric identifiers

(1) The biometric identifiers shall be  
collected by qualified and duly  
authorised staff designated by the  
national authorities responsible for  
issuing identity cards.

(2) Where difficulties are encountered

NL heeft een positieve grondhouding

NL heeft een positieve grondhouding

We are interested in what the commission sees as  
details and observations. The Netherlands is  
thinking of adding a QR-code

In the future the Netherlands will use the ID-card  
for eID and will need this possibility. There seems  
to be duplication between this article and article 8.

There seems to be duplication with article 7

NL heeft een positieve grondhouding

Hier zouden we kunnen  
pleiten voor een uitzondering  
voor "gewetensbezwaarden"  
of een id kaart voor mensen  
die niet in de EU reizen.

Interessant om te houden,  
mochten wij op enig moment  
ouderen een langer geldige id  
kaart geven

The Netherlands is curious whether this implies  
that only a civil servant can be authorized staff or if  
this task can be designated to the public sector.  
Request comment from commission.

This is a vague article. What type of situation is

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

implied? Who will decide on what appropriate procedures are?

## Article 5

### Phasing out

Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by five years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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.

The Netherlands is against phasing out documents that meet the ICAO standards. The Netherlands proposes that documents that meet the ICAO standards but do not contain fingerprints are allowed to expire naturally.

The Netherlands has to adopt fingerprints on their ID-cards and the commission has not sufficiently build the case for added value regarding security and has only stated it is their wish to bring the functionality of ID-cards to the same level as the passport. Fingerprints are as of yet unused in passports, The phasing out of documents is expensive and the addition of fingerprints is disproportionate.

## Chapter III

### Residence Documents for Union citizens

## Article 6

### Minimum Information to be Indicated

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

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the Institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;

NL heeft een positieve grondhouding tav het voorstel zolang het aan de LS is dat zij zelf kunnen bepalen wanneer een verblijfsdocument wordt afgegeven en dat er op dit document geen vingerafdrukken wordt opgeslagen. .  
NL heeft positieve grondhouding.

- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (f) date of issue;
- (g) place of issue.

Positieve grondhouding  
Positieve grondhouding  
Positieve grondhouding  
Positieve grondhouding  
Positieve grondhouding

IND graag aangeven of deze verwijzing noodzakelijk is.

## 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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.

(2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', respectively. Member States may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively.

NL heeft positieve grondhouding.

NL heeft een voorbehoud bij dit voorstel. " Door de documenttitel te vervangen door deze codering is het niet snel mogelijk om de status van betrokkene vast te stellen.

Daarom voorstel NL om de huidige aanduiding VERBLIJFSKAART aan het begin en het einde van deze tekst te voorzien van het \* teken waarmee een verwijzing naar de onderzijde van de kaart wordt gemaakt waar de formele wetstekst RESIDENCE CARD OF A FAMILY MEMBER OF A UNION CITIZEN danwel PERMANENT RESIDENCE CARD OF A FAMILY OF A UNION CITIZEN wordt vermeld.

Momenteel geeft NLD verblijfskaarten uit aan gezinsleden van EU-burgers die niet zelf EU-burger zijn. De titel van het document is VERBLIJFSKAART en bij de omschrijving wordt vermeld dat het een gezinslid van een EU burger betreft conform de desbetreffende verordening. Voorstel van de CIE is om deze officiële lange tekst te vervangen door een code "Art 10 DIR 2004/38/EC" of "Art 20 DIR 2004/38/EC". Door de documenttitel te vervangen door deze codering is het niet snel mogelijk om de status van betrokkene vast te stellen. daarom voorstel NL om de huidige aanduiding VERBLIJFSKAART aan het begin en het einde van deze tekst te voorzien van het \* teken waarmee een verwijzing naar de onderzijde van de kaart wordt gemaakt waar de formele wetstekst RESIDENCE CARD OF A FAMILY MEMBER OF A UNION CITIZEN danwel PERMANENT RESIDENCE CARD OF A FAMILY OF A UNION CITIZEN wordt vermeld.

(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 same requirements as set out in Article 4, 2nd subparagraph, of Council 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 are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [two years after the date of application of this Regulation], whichever is earlier.

(2) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.

#### CHAPTER V

##### COMMON PROVISIONS

#### Article 9

##### Contact point

(1) Each Member State shall designate one authority as a contact point for the implementation of this Regulation. It shall communicate the name of that authority to the Commission and the

NL heeft een positieve grondhouding.

NL acht het wenselijk dat er 1 termijn wordt gehanteerd voor de uitfasering van de betreffende documenten. In dit verband dus wenselijk dat een termijn van 5 jaar wordt opgenomen.

Zie standpunt onder art. 8 lid 1

JenV



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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

JenV

#### Article 10

##### Protection of personal data

(1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification or erasure.

What is considered appropriate? And what personal data does the commission think can be rectified or erased?

Also it is unclear what rectification and erasure mean as cards cannot be altered. The only possibility is that a new document with the needed changes can be requested.

(2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.

CZW?

(3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:

(a) the authenticity of the identity card or residence document;

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

#### Article 11

##### Monitoring

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and

Impacts of this Regulation.

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 the 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 the monitoring.

-  
Can be made more specific what data is required and if a country doesn't already register these data.

## Article 12

### Reporting and Evaluation

(1) Four 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.

(2) No sooner than six years after the date of application of this Regulation, 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.

-  
Six years seems quick considering the phasing out period. This means that just for one year all documents are machine readable. Will there be enough experience?

(3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

-  
How does this differ from the data as meant in article 11

## Article 13

### 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 12 months after its entry into force.

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

Done at Strasbourg,

For the European Parliament    For the Council

The President The President



Strasbourg, 17.4.2018  
COM(2018) 212 final  
2018/0104 (COD)

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**

(Text with EEA relevance)

{SWD(2018) 110 final} - {SWD(2018) 111 final}

## 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. This excludes documents that aren't valid identification or travel documents outside the member state itself.
- (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 comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015). Sex registration will be optional
- (2) The document title ('Identity card') shall appear in the official language or languages of the issuing Member State and at least one other official language of the institutions of the Union.
- (3) 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 formats. The inclusion of fingerprints is optional

Met opmerkingen [WA1]: ICAO puts registration of sex as mandatory subject in the visual inspection zone, which makes it a security feature. However we think the registration is not relevant and the mandatory nature might be debated in the future

Met opmerkingen [WA2]: See comment under article 3(6)



- (4) 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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002.
- (5) The following persons shall be exempt from the requirement to give fingerprints:
  - (a) children under the age of 12 years;
  - (b) persons whose fingerprinting is physically impossible.
- (6) Member States may enter details and observations for national use as required in the light of their national provisions.
- (7) 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 not interfere with the storage medium referred to in paragraph 3.
- (8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
- (9) Where Member States add national security features to the identity cards, the cross-border interoperability of the identity cards and the efficiency of the minimum security standards shall not be diminished.
- (10) Identity cards shall have a maximum period of validity of 10 years. Derogations may be provided for specific age groups.

#### Article 4

##### Collection of biometric identifiers

- (1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards.
- (2) 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.

#### Article 5

##### Phasing out

Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by ~~five-ten~~ years after [the date of application of the Regulation], whichever is earlier. ~~However, identity cards which do not meet the requirements of article 3(1) shall cease to be valid at their expiry or by five years after [the date of application of this Regulation], whichever is earlier.~~ Identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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.

**Metopmerkingen [WA3]:** The Netherlands requires the prefix 'Nederlandse' before 'identiteitskaart'. This is because of the governmental structure of the Kingdom of the Netherlands. Within the Kingdom of the Netherlands there are four countries, one of which is the Netherlands, the others are islands in the Caribbean, but they are all part of the Kingdom of the Netherlands, and all issue their own identity cards. Neither of these identity cards are valid travel documents within the Schengen area. To specify whether one has right of free movement within the Schengen area the prefix 'Nederlands' is needed.

**Metopmerkingen [WA4]:** The weakest documents should be phased out as quickly as possible. Documents that are close to the ideal should not be phased out earlier than ten years. Phasing out these cards is costly and has little returns. A title of the document or lack of fingerprints cannot be a reason to phase out documents.

## **CHAPTER III RESIDENCE DOCUMENTS FOR UNION CITIZENS**

### *Article 6*

#### *Minimum information to be indicated*

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

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;
- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (f) date of issue;
- (g) place of issue.

## **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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.
- (2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', respectively. Member States may use the standardised ~~code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC',~~ respectively tekst: "Residence card" with an asterix refering to the full title elsewhere: 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen'.



- (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 same requirements as set out in Article 4, 2<sup>nd</sup> subparagraph, of Council 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 are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [~~two~~ five years after the date of application of this Regulation], whichever is earlier.
- (2) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.

### **CHAPTER V COMMON PROVISIONS**

#### *Article 9*

##### *Contact point*

- (1) Each Member State shall designate one authority as a contact point 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

#### *Article 10*

##### *Protection of personal data*

- (1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification and the issuance of a new document.



- (2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
- (3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:
  - (a) the authenticity of the identity card or residence document;
  - (b) the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.

#### *Article 11*

##### *Monitoring*

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 the 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 the monitoring.

#### *Article 12*

##### *Reporting and Evaluation*

- (1) Four 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.
- (2) No sooner than six years after the date of application of this Regulation, 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.
- (3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

#### *Article 13*

##### *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 12 months after its entry into force.

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

Done at Strasbourg,

*For the European Parliament  
The President*

*For the Council  
The President*

**Westerhuis, Arend-Jan**

---

**Van:** 10.2e @minbuza.nl>  
**Verzonden:** donderdag 14 juni 2018 19:06  
**Aan:** 10.2e  
  
**CC:** 10.2e  
**Onderwerp:** RE: Flits gesprek JDR ikv rechtsgrondslag voorstel biometrie ID-docs  
**Bijlagen:** JDR biometrie paspoorten.pdf; Verslag bijeenkomst Juridische dienst van de Raad.docx

Beste allen,

Met dank aan 10.2e voor hun spar- en denkwerk, bijgaand het verslag. Heb geprobeerd eea te clusteren. Bijgaand ook nog een oud advies van de JDR over het voorstel biometrie paspoorten, dat raakt aan deze discussie.

Groet,

---

**From:** 10.2e @minbzk.nl]  
**Sent:** woensdag 13 juni 2018 08:50  
**To:** 10.2e  
  
**Cc:** 10.2e  
**Subject:** RE: Flits gesprek JDR ikv rechtsgrondslag voorstel biometrie ID-docs

Hoi 10.2e, dank voor je verslagje en jullie interventie. 11.1  
Lastige hier is mi dat 21 (3) en 77 (3) beiden hetzelfde lijken te regelen. NI als optreden nl als optreden nodig is mbt vrij verkeer, geldt gewone meerderheid. Art 77 is een andere uitwerking van oa art 21 en richt zich speciaal op grenzen. In 77 (3) wordt vervolgens geregeld dat bij het ontbreken van een specifieke grondslag (mi te lezen in de context van 77(1) en 77 (2) ) er voor paspoorten en id kaarten een bijzondere procedure geldt.

Bij het ontbreken van toelichtingen kunnen we niet nagaan of 77 (3) enkel slaat op uiterlijke kenmerken. 11.1

11.1

Bovendien wil men ook nog vingerafdrukken plaatsen op de kaart, iets wat in het kader van het vrije verkeer al helemaal geen rol speelt, die zijn nl alleen bedoeld om aan de grenzen uit te lezen, zo staan nl nadrukkelijk in de verordening. Maw iets dat nadrukkelijk onder artikel 77 wordt geregeld (en dus art 77 (3) als grondslag dient te gebruiken.

11.1

Ik stel voor dat we, zodra we jullie verslagje hebben, met de EU afdeling van Buza een poging doen om een brief op te stellen richting de EK 11.1

Met vriendelijke groet,

10.2e



10.2e

Van: 10.2e <minbuza.nl>

Verzonden: dinsdag 12 juni 2018 18:18

Aan: 10.2e <s@minbzk.nl>; 10.2e <@minbzk.nl>; 10.2e <@minbzk.nl>; 10.2e <@rvig.nl>; 10.2e <@rvig.nl>; 10.2e <@minbzk.nl>; 10.2e <@minbzk.nl>; 10.2e <@minvenj.nl>; 10.2e <@minbzk.nl>; 10.2e <@minbuza.nl>; 10.2e <@minbzk.nl>; 10.2e <@minbuza.nl>; 10.2e <@minbuza.nl>; 10.2e <@minbuza.nl>; 10.2e <@minbuza.nl>

cc: 10.2e <@minbuza.nl>

Onderwerp: Flits gesprek JDR ikv rechtsgrondslag voorstel biometrie ID-docs

Beste collega's,

Vandaag gesprek gehad met JDR nav de EK-brief. Dank aan 10.2e dat zij last-minute mee wilde gaan en het concept-verslag op wil stellen. JDR gaf ons de volgende argumenten. We werken e.e.a. nog uit in volledig verslag.

- 77 (3) is geen lex specialis, maar een restbepaling. Dit betekent dat indien er een andere bepaling voorhanden is (in dit geval 21 (2)), die bepaling prevaleert;
- Keuze voor 77 (3) zou leiden tot problemen met variabele geometrie (positie 10.2a);
- Voorstel is logische consequentie van richtlijn 2004/38 en dient daarom rechtsgrondslag te volgen: soortgelijke aanpak is gekozen bij uitwerking van EGKW: voorstel 656/2014 en uitwerking posted workers. De reikwijdte van het voorstel sluit ook helemaal aan bij de reikwijdte van de richtlijn vrij verkeer. Het is voor de JDR duidelijk dat dit voorstel enkel is bedoeld ter facilitering van de richtlijn 2004/38 en daarom de rechtsgrondslag moet volgen;
- 77 (3) is enkel bedoeld voor uiterlijke kenmerken van de ID-kaarten, niet voor veiligheidskenmerken;
- Er is geen precedent voor gebruik 77 (3) in kader van richtlijn 2004/38;

Met name de eerste drie argumenten lijken me sterk.

JDR was bereid om (een ENG vertaling van) de brief voorafgaand aan verzending EK te checken. Hierbij bood JDR aan er in gezamenlijkheid met de juridische dienst van CIE naar te willen kijken, zodat we de steun hebben van beide instituties.

Groet,

10.2e

---

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## INSTRUCTIE RAADSWERKGROEP GRENZEN, DATUM: 26 juni 2018

### Essentie NL positie

#### Behandelveorbehoud

- Het NL-parlement heeft een voorbehoud geplaatst.
- Het is de verwachting dat het parlement kr tisch zal zijn op de verplichting van vingerafdrukken

#### Grondslag

- Nederland blijft vraagtekens plaatsen bij het gebruik van de rechtsgrondslag voor de verordening
- Nederland gaat ervan u t dat de kans groot is dat er in Nederland privacypartijen zijn die juridische procedures tot en met het Hof van Justitie zullen willen voeren

#### ID-kaarten

- NL is positief over het verlengen met de uitfaseertermijn van ID-kaarten van vijf naar tien jaar.
- —Nederland erkent het belang van de opname van vingerafdrukken voor het tegengaan van identiteitsfraude en ter bevordering van de interne veilighe d, maar is terughoudend u t proportionaliteitsoverwegingen (Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij afname en opslag van vingerafdrukken op het document) in relatie tot het beoogde doel. De tot op heden beperkte controle aan de buitengrenzen van vingerafdrukken uit paspoorten is daarbij relevant). (omdat het een inbreuk op de privacy betekent, met een risico op het in verkeerde handen raken van deze gegevens en bovendien feitelijk (nog) niet wordt gebruikt voor controle aan de buitengrenzen tot op heden)

Met opmaak: Geen opsommingstekens of nummering

#### Vreemdelingendocumenten:

- NL heeft positieve grondhouding t.a.v. het voorstel dat een set minimeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers en hun gezinsleden niet EU-leden wordt gesteld.

NL heeft een voorbehoud bij het voorstel om de documentt tel te vervangen door een codering.

### Per artikel:

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 <u>that are valid travel documents</u> delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC <b>with a validity of more than three months</b> ,	Nederland heeft de behoefte explicieter te maken dat nationale kaarten, die geen reisdocument zijn uitgesloten worden van de verordening  Nederland kan instemmen met de toevoeging
(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	
<b>CHAPTER II</b>		
<b>NATIONAL IDENTITY CARDS</b>		
<i>Article 3</i>		
<i>Security standards format specifications</i>		
(1)	Identity cards issued by Member States shall be produced in ID-1 format and shall comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) <b>The card shall be made entirely of polycarbonate or equivalent synthetic polymer (lasting for at least 10 years).</b>	Het is onze verwachting dat de verplichting van sekserregistratie en de beperkte mogelijkheden die ICAO toestaat voor sekse registratie later nog ter discussie zullen komen te staan. Sekserregistratie wordt door een groeiende groep als nodeloze biografie gezien  Nederland kan instemmen met de toevoeging
(2)	The document title ('Identity card') shall appear in the official language or languages of the issuing Member State and at least one other official language of the institutions of the Union	
(3)	Identity cards shall include a highly secure storage medium which shall contain a facial image of the holder of the card <u>and two fingerprints</u> in interoperable <b>digital</b> formats	Nederland acht de verplichting van vingerafdrukken niet proportioneel in het licht van de rechtsgrondslag die ziet op vrij verkeer. In de binnengrenzen van Schengen kan tussen landen gereisd worden zonder dat vingerafdrukken worden uitgelezen  Nederland kan instemmen met de toevoeging
(4)	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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002	
(5)	The following persons <b>shall may</b> be exempt from the requirement to give fingerprints	Nederland kan instemmen met de toevoeging
(a)	children under the age of 12 years;	
(b)	persons whose fingerprinting is physically impossible	

(5a)	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 an identity card having a validity of <del>three months</del> <u>one year or less</u>	Nederland kan instemmen met de toevoeging m.u.v. de geldigheidsduur. Nederland hanteert voor paspoorten nu 1 jaar en daarmee worden bepaalde burgers al op kosten én administratieve lasten gejaagd, bv. zij die als gevolg van medicijngebruik tijdelijk geen vingerafdrukken van goede kwaliteit kunnen afstaan.  Ook zijn er burgers die permanent geen vingerafdrukken kunnen afstaan. Hiervoor dient een aparte en meer permanente regeling getroffen te worden.  Merk ook op dat er nu tweemaal een '5a' is ontstaan.
(6)	Member States may enter details and observations for national use as required in the light of their national provisions	
(7)	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 not interfere with the storage medium referred to in paragraph 3	
(8)	Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3	
(9)	Where Member States add national security features to the identity cards, the cross-border interoperability of the identity cards and the efficiency of the minimum security standards shall not be diminished	
(10)	Identity cards shall have a maximum period of validity of 10 years. <del>Member States may issue identity cards with longer validity. Derogations may be provided for persons beyond a certain age limit provided by national law specific age groups.</del>	Nederland kan instemmen met de toevoeging
<i>Article 4</i>		
<i>Collection of biometric identifiers</i>		
(1)	The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards	
(2)	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	
<i>Article 5</i>		
<i>Phasing out</i>		
Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <del>five</del> <u>ten</u> years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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		Nederland kan instemmen met de toevoeging
<b>CHAPTER III</b>		
<b>RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>		



<i>Article 6</i>	
<i>Minimum information to be indicated<sup>1</sup></i>	
Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	
(a)	the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
(b)	the clear reference that the document is issued in accordance with Directive 2004/38/EC;
(c)	document number;
(d)	name (surname and forename(s)) of the holder;
(e)	date of birth of the holder;
(f)	date of issue;
(g)	place of issuing authority
Nederland heeft voorbeeld bij het voornamelijk Op dit moment bevat verblijfsdocument alleen place of issue (plaats van uitgifte). Dit zal ook een gegeven zijn voor op de verblijfsdocumenten in kader van de nieuwe verblijfsdocumentenverordening. De issuing authority is daarin optioneel	
CHAPTER IV	
RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE	
<i>Article 7</i>	
<i>Uniform format</i>	
(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 the provisions of Council Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1934, and as implemented by the provisions of the Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third-country nationals as last amended by Commission Decision C(2013) 6178 of 30 9 2013
(2)	By derogation from paragraph 1, a card shall indicate the holder's title as issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', respectively. Member States shall indicate that the documents are issued to a family member of a Union citizen in accordance with Directive 2004/38/EC. For this purpose Member States may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively. By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen'.

<sup>1</sup> A recital will be added inviting to use ICAO security standards.

	<p><i>residence card of a family member of a Union citizen; 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 may use the standardised code 'Act 10.DIR.2004/38/EC' or 'Act 30.DIR.2004/38/EC, entry-stamp'.</i></p>	
(3)	<p>Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall respect the same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1934.</p>	
	<p><i>Article 8</i></p>	
	<p><i>Phasing out of existing residence cards</i></p>	
(1)	<p>Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [two three years after the date of application of this Regulation], whichever is earlier.</p>	<p>NL acht wettelijk vast voor de eenduidigheid te mijn wordt gehanteerd voor de uitsluiting van de documenten, bij voorkeur 5 jaar</p>
(2)	<p>Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1934 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.</p>	
	<p>CHAPTER V</p>	
	<p>COMMON PROVISIONS</p>	
	<p><i>Article 9</i></p>	
	<p><i>Single Contact point of contact</i></p>	
(1)	<p>Each Member State shall designate one authority as a single contact 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.</p>	<p>Nederland kan instemmen met de toevoeging</p>
(2)	<p>Member States shall ensure that the contact points are aware of and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.</p>	
	<p><i>Article 10</i></p>	
	<p><i>Protection of personal data</i></p>	
(1)	<p>Without prejudice to the application of Regulation (EU)</p>	<p>Nederland kan instemmen met de aanpassing</p>

	2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification or <del>erasure</del> and issuance of a new document	
(2)	Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State	
(3)	Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:	
(a)	the authenticity of the identity card or residence document,	
(b)	the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law	
<i>Article 11</i>		
<i>Monitoring</i>		
By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation		
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 the 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 the monitoring		
<i>Article 12</i>		
<i>Reporting and Evaluation</i>		
(1)	Four 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	
(2)	No sooner than six years after the date of application of this Regulation, 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	
(3)	Member States shall provide the Commission with the information necessary for the preparation of the reports	
<i>Article 13</i>		
<i>Entry into force</i>		
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i>		
It shall apply from <del>42</del> 24 months after its entry into force		Nederland kan instemmen met de aanpassing
This Regulation shall be binding in its entirety and directly applicable in all Member States		



Council of the  
European Union

Brussels, 20 June 2018  
(OR. en)

10317/18

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Interinstitutional File:  
2018/0104 (COD)

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LIMITE

JAI 676  
FRONT 188  
VISA 158  
FAUXDOC 52  
CODEC 1120  
IA 221  
FREMP 109

**NOTE**

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From:	Presidency
To:	Working Party on Frontiers
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

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Delegations will find attached compromise proposals by the Presidency, which will be discussed at the Working Party on Frontiers on 26 June 2018.

Changes vis-à-vis the original Commission proposal are highlighted in **bold** and ~~striketrough~~.

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10317/18

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**EN**

**ANNEX**

2018/0104 (COD)

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**

(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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .



- (2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right.<sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive<sup>4</sup>.
- (5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents<sup>5</sup>, and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.
- (6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.
- ~~(6a) this regulation does not affect the competence of member states to assign other documents as valid identity documents within their own country such as drivers licences~~
- (7) 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 Council,<sup>6</sup> 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 a better access to services.

<sup>3</sup> 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).

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.

<sup>6</sup> 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).

Met opmaak: Tekst opmerking, Inspringing: Links: 0 cm, Verkeerd-om: 1,25 cm

Met opmaak: Engels (Verenigd Koninkrijk), Geen spelling- of grammaticacontrole uitvoeren

Met opmaak: Engels (Verenigde Staten)

- (8) 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.
- (9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.
- (10) The specifications of the International Civil Aviation Organisation (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.
- (11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.
- (12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. 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 interoperability 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.
- (13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union<sup>7</sup>. Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.
- (14) 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 EU mobile citizen's use of the right to 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.

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<sup>7</sup> OJ L 23, 26.11.2009

- (15) 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 Council Regulation (EC) No 1030/2002<sup>8</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954<sup>9</sup>. In addition to a prove of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.
- (16) 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".
- (17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of five years 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 European Union. However, for cards which do not have important features, in particular machine readability, a shorter period of two years is necessary on security grounds.
- (18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>10</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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.
- (19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.

<sup>8</sup> Council Regulation (EC) 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.

<sup>9</sup> OJ L 286 of 1.11.2017, p.9.

<sup>10</sup> OJ L 119, 4.5.2016, p. 1.



- (20) Member States should apply this Regulation at the latest ~~42~~24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.
- (21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making<sup>11</sup> the Commission should 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 the Regulation and the need for any further action.
- (22) 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.
- (23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.

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<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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 **with a validity of more than three 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 comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015). **The card shall be made entirely of polycarbonate or equivalent synthetic polymer (lasting for at least 10 years).** ~~The mandatory registration of sex is optional~~
- (2) The document title ('Identity card') shall appear in the official language or languages of the issuing Member State and at least one other official language of the institutions of the Union.
- (3) 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.
- (4) 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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002.
- (5) The following persons ~~shall~~ may be exempt from the requirement to give fingerprints:
  1. children under the age of 12 years;
  2. persons whose fingerprinting is physically impossible.
- (5a) **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 an identity card having a validity of ~~three months or less~~ one year.**
- (6) Member States may enter details and observations for national use as required in the light of their national provisions.
- (7) 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 not interfere with the storage medium referred to in paragraph 3.

Met opmerkingen [WA1]: ICAO has a limited spectrum of allowed definitions. As people look to this document for acceptance of their sex it is important to either omit the mandatory nature of registration or widen the spectrum of allowed definitions.

Met opmerkingen [WA2]: Fingerprints should be optional.

Met opmerkingen [WA3]: Which is the same for passports. Certain groups cannot give fingerprints due to medication. They shouldn't be forced to renew their documents every three months.

- (8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
- (9) Where Member States add national security features to the identity cards, the cross-border interoperability of the identity cards and the efficiency of the minimum security standards shall not be diminished.
- (10) Identity cards shall have a maximum period of validity of 10 years. Member States may issue identity cards with longer validity ~~Derogations may be provided~~ for persons beyond a certain age limit provided by national laws ~~specific age groups~~.

#### Article 4

##### Collection of biometric identifiers

- (1) The biometric identifiers shall be collected live by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. The facial image shall have sufficient image resolution and quality to be used in automated biometric matching.
- (2) 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.

#### Article 5

##### Phasing out

Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by ~~five~~ ten years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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.

**Met opmerkingen [WA4]:** In identity verification the facial recognition is always used and fingerprints only when there is doubt. It is vital the facial image is of high quality and the source is trusted

The image can be taken by a civil servants or authorised photographers who then send the digital file. Printed photo's that then have to be scanned again. Should not be allowed

**Met opmerkingen [DDv5]:** Ligt dat al niet vast in de ICAO specificaties

### CHAPTER III

#### RESIDENCE DOCUMENTS FOR UNION CITIZENS

##### Article 6

##### *Minimum information to be indicated<sup>12</sup>*

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

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;
- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (f) date of issue;
- (g) ~~place of issuing authority~~ **Place of issue**

**Met opmerkingen [WA6]:** The residence permit should include place of issue and issuing authority should be optional

**Met opmaak:** Niet Doorhalen

<sup>12</sup> A recital will be added inviting to use ICAO security standards.



## 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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.
- (2) ~~By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively. derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively.~~
- (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 same requirements as set out in Article 4, 2nd subparagraph, of Council 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 are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by ~~two~~ three-five years after the date of application of this Regulation], whichever is earlier.

Met opmerkingen [WA7]: 1 period for the phasing out of existing residence cards

- (2) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on *[the date of entry into force of this Regulation]*, shall cease to be valid at their expiry or by *[five years after the date of application of this Regulation]*, whichever is earlier.

## CHAPTER V

### COMMON PROVISIONS

#### *Article 9*

##### *Single ~~Contact~~ point of contact*

- (1) Each Member State shall designate one authority as a **single ~~contact~~ 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

#### *Article 10*

##### *Protection of personal data*

- (1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification ~~or erasure and~~ **issuance of a new document**.
- (2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
- (3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:
  1. the authenticity of the identity card or residence document;
  2. the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.



#### *Article 11*

##### *Monitoring*

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 the 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 the monitoring.

#### *Article 12*

##### *Reporting and Evaluation*

- (1) Four 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.
- (2) No sooner than six years after the date of application of this Regulation, 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.
- (3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

*Article 13*

*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 ~~42~~ 24 months after its entry into force.

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

Done at Strasbourg,

*For the European Parliament*

*For the Council*

The President    The President

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10.2e

**Van:** 10.2e  
**Verzonden:** maandag 2 juli 2018 13:05  
**Aan:** 10.2e  
**CC:** 10.2e  
10.2e  
**Onderwerp:** Tekstvoorstel II biometrie op identiteitskaarten v0.3  
**Bijlagen:** Tekstvoorstel II biometrie op identiteitskaarten v0.3.docx

Hoi 10.2e

In de bijlage het tekstvoorstel op de compromistekst.

Verder zullen we de volgende RWG grenzen mogelijk nog twee zaken moeten opbrengen. 1) Wij verwijderen de machine uitleesbare zone van uitreizigers. Dat voldoet dus niet aan de ICAO normen. 10.2a  
2) Voor de toekomst zien wij de mogelijkheid van een virtuele identiteitskaart, bijvoorbeeld op mobiele telefoon. De vraag is of de commissie daar over nagedacht heeft. De verordening verstevigd de positie van het fysieke document aanzienlijk.

Gr,

10.2e

## INSTRUCTIE RAADSWERKGROEP GRENZEN, DATUM: 26 juni 2018

### Essentie NL positie

#### Behandelvoorbehoud

- Het NL-parlement heeft een voorbehoud geplaatst.
- Met het Parlement is afgesproken hen op de hoogte te houden van de besprekingen
- Ook is afgesproken hen, alvorens Nederland stemt, te informeren
- Het Parlement is kritisch op de verplichting van vingerafdrukken en stelt dat het geen proportioneel middel is

#### Grondslag

- Nederland blijft vraagtekens plaatsen bij het gebruik van de rechtsgrondslag voor de verordening
- Nederland gaat ervanuit dat de kans groot is dat er in Nederland privacypartijen zijn die juridische procedures tot en met het Hof van Justitie zullen willen voeren

#### ID-kaarten

- Nederland stelt dat, gezien de inzet aan de grens op automatische gezicht herkenning, ingezet moet worden op live-capture van de foto. Dit kan ter plaatse of via geautoriseerde fotografen. Foto's worden namelijk altijd gecontroleerd, in tegenstelling tot wat voorzien is met vingerafdrukken
- Nederland erkent het belang van de opname van vingerafdrukken voor het tegengaan van identiteitsfraude en ter bevordering van de interne veiligheid, maar is terughoudend uit proportionaliteitsoverwegingen (Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij afname en opslag van vingerafdrukken op het document) in relatie tot het beoogde doel en de verwezenlijking daarvan. De tot op heden beperkte controle aan de buitengrenzen van vingerafdrukken uit paspoorten is daarbij relevant.

#### Vreemdelingendocumenten:

- NL heeft positieve grondhouding t.a.v. het voorstel dat een set minimumeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers en hun gezinsleden niet EU-leden wordt gesteld.  
NL heeft een voorbehoud bij het voorstel om de documenttitel te vervangen door een codering.

### Per artikel:

CHAPTER I	
SUBJECT MATTER, SCOPE AND DEFINITIONS	
<i>Article 1 Subject matter</i>	
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.	
<i>Article 2 Scope</i>	
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 with a validity of more than three 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.	
<b>CHAPTER II</b>		
<b>NATIONAL IDENTITY CARDS</b>		
<i>Article 3</i>		
<i>Security standards/format/specifications</i>		
(1)	<p>Identity cards issued by Member States shall be produced in ID-1 format and shall comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015). <b>The card shall be made entirely of polycarbonate or equivalent synthetic polymer (lasting for at least 10 years).</b></p> <p>(A recital will be added to address the quality of the document and the personalisation technique.)</p>	<p>Nederland geeft aan mensen met een uitreisverbod een vervangende identiteitskaart waarop staat dat deze buiten Schengen niet geldig is. Deze bevat geen Machine uitleesbare zone. Vraag is of de commissie over groepen met een locatiebeperking nagedacht heeft en hoe andere idstaten met deze groep of locatiebeperkingen omgaan.</p> <p>Het is onze verwachting dat de verplichting van seksregistratie en de beperkte mogelijkheden die ICAO toestaat voor sekse registratie later nog ter discussie zullen komen te staan. Seksregistratie wordt door een groeiende groep als nodeloze biografie gezien. Nederland kan instemmen met de wijziging</p>
(2)	The document title ('Identity card') shall appear in the official language or languages of the issuing Member State <del>and or</del> at least one other official language of the institutions of the Union.	
(3)	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.	Nederland acht de verplichting van vingerafdrukken niet proportioneel in het licht van de rechtsgrondslag die ziet op vrij verkeer. In de binnengrenzen van Schengen kan tussen landen gereisd worden zonder dat vingerafdrukken worden uitgelezen.
(4)	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 <del>in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002 in the Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.</del>	Rvig?



(5)	<p><b><u>Children under the age of 12 years</u></b><del>The following persons shall</del> may be exempt from the requirement to give fingerprints.  <del>(a) children under the age of 12 years;</del>  <b>Persons whose fingerprinting is physically impossible shall be exempt</b></p>	<p>T.a.v. 'physically impossible to take fingerprints': Nederland zou daaronder graag willen begrijpen de mensen die vanwege zwaarwegende redenen niet naar de ambassade kunnen reizen, bijvoorbeeld vanwege lichamelijk of geestelijke beperking zoals ziekte of ouderdom. In de meeste landen hebben ook deze mensen te maken met een identificatieplicht en zij komen niet altijd in aanmerking voor een lokale ID.</p> <p>De afstanden in het buitenland naar een Nederlandse ambassade of consulaat zijn soms erg groot.</p> <p>Hoe lossen andere lidstaten dat op?</p> <p>NB: Indien de aanvrager niet kan verschijnen voor de aanvraag van een Nederlandse identiteitskaart dient hij dat met een verklaring aan te tonen. Uit de verklaring moet blijken dat de aanvrager om fysieke dan wel psychische redenen langdurig niet in staat is persoonlijk te verschijnen. De verklaring kan, afhankelijk van de specifieke situatie, afgegeven worden door bijvoorbeeld een arts (ziekte) of directeur van een zorginstelling (voorbeeld dementie).</p> <p>In zo'n geval dient op alternatieve wijze en op afstand de identiteit van de aanvrager te worden vastgesteld. Dit kan door middel van een door de aanvrager te overleggen verklaring van een lokale autoriteit, arts of een notaris.</p>
(5)	<p>(a) <b>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 an identity card having a validity of one year.</b></p>	<p>Nederland kan instemmen met de toevoeging muv de geldigheidsduur. Nederland hanteert voor paspoorten nu 1 jaar en daarmee worden bepaalde burgers al op kosten én administratieve lasten gejaagd, bv zij die als gevolg van medicijngebruik tijdelijk geen vingerafdrukken van goede kwaliteit kunnen afstaan, Ook zijn er burgers die permanent geen vingerafdrukken kunnen afstaan. Hiervoor dient een aparte en meer permanente regeling getroffen te worden</p>
(6)	<p>Member States may enter details and observations for national use as required in the light of their national provisions.</p>	
(7)	<p>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 not interfere with the storage medium referred to in paragraph 3.</p>	
(8)	<p>Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.</p>	
(9)	<p>Where Member States add national security features to the identity cards, the cross-border <b>interoperability compatibility</b> of the identity cards and the efficiency of the minimum security standards shall not be diminished.</p>	
(10)	<p>Identity cards shall have a maximum period of validity of 10 years. <b>Member States may issue identity cards with longer validity Derogations may be provided for persons beyond a certain age limit provided by national law specific age groups.</b></p>	<p>'a certain age limit' is te vraag. Bedoeld wordt mensen van boven de 60. Nu kan ook mensen van boven de 10 gelezen worden.</p>
	<p><i>Article 4</i></p>	
	<p><i>Collection of biometric identifiers</i></p>	
(1)	<p>The biometric identifiers shall be collected <u>live</u> by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards.</p>	<p>Nederland hecht eraan dat de aanlevering van foto's, afgenomen door 'authorised staff' middel betrouwbare aanlevering geschied. Als een foto per print wordt aangeleverd kan niet uitgesloten worden dat deze gemanipuleerd is. In het geval dat de foto gemaakt wordt door een geautoriseerde fotograaf dient deze de foto digitaal aan de uitgevende instantie aan te leveren. De foto moet in digitaal formaat beschikbaar zijn en voldoen aan minimale eisen met betrekking tot de beeldkwaliteit. Ook moeten foto's achteraf te</p>

	herleiden zijn tot de fotograaf om corruptie tegen te gaan. Controle van de foto is een stap die altijd genomen wordt en het is derhalve van groot belang dat juist deze van hoge kwaliteit is.
(2) 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.	
<i>Article 5</i>	
<i>Phasing out</i>	
Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <del>five</del> ten years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by <del>three</del> two years after [the date of application of this Regulation], whichever is earlier.	Nederland kan instemmen met de toevoeging
<b>CHAPTER III</b>	
<b>RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	
<i>Article 6</i>	
<i>Minimum information to be indicated</i> (A recital will be added inviting to use ICAO security standards)	
Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	
(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	
(b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;	
(c) document number;	
(d) name (surname and forename(s)) of the holder;	
(e) date of birth of the holder; (a) <u>on registration certificates issued in accordance with Article 8 of Directive 2004/38/EC, the date of the registration and the address of the holder;</u> (b) <u>on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;</u>	
(f) <u>date of issue;</u>	
(g) <u>place of issuing authority.</u>	NL handhaaft voorbehoud, NL heeft eerder aangegeven dat wij place of issue op document willen hebben ipv issuing authority
<b>CHAPTER IV</b>	
<b>RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	
<i>Article 7</i>	
<i>Uniform format</i>	
(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 the provisions of Council 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 Commission Decision C(2002) 3069	

	of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.	
(2)	By derogation from paragraph 1, a card <del>shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 <del>may</del> shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively <u>as referred to in data field 1101 in the Annex of Council 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.</u></del>	NL heeft voorhoud bij de verplichting om de code op te nemen op de kaart. LS moeten zelf kunnen bepalen of zij de codering in de ttel van de verblijfsdocumenten willen opnemen
(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 same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.	
<i>Article 8</i>		
<i>Phasing out of existing residence cards</i>		
(4)	Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by <del>two</del> three years after the date of application of this Regulation], whichever is earlier.	NL acht van belang dat voor de eenduidigheid één termijn wordt gehanteerd voor de uitfasering van de documenten, bij voorkeur 5 jaar. Daarom voorbehoud bij de 3 jaar
(5)	Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.	
<b>CHAPTER V</b>		
<b>COMMON PROVISIONS</b>		
<i>Article 9 Contact point of contact</i>		
(1)		
(2)	Each Member State shall designate <u>at least one central authority. Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact point of contact</u> 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.	NL kan instemmen met wijziging

(3)	Member States shall ensure that the contact points are aware of and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.	
<i>Article 10 Protection of personal data</i>		
(1)	Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification <del>or erasure and issuance of a new document</del> .	2
(2)	Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.	
(3)	Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:	
(a)	the authenticity of the identity card or residence document;	
(b)	the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.	
<i>Article 11 Monitoring</i>		
By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.		
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 the 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 the monitoring.		
<i>Article 12 Reporting and Evaluation</i>		
(1)	Four 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.	
(2)	No sooner than six years after the date of application of this Regulation, 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.	
(3)	Member States shall provide the Commission with the information necessary for the preparation of the reports.	

<b>Article 12a</b>	
<b>Further technical specification</b>	
1. <u>In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Article 1 with future minimum security standards adopted pursuant 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 and as implemented by the provision of Commission Decision C(2002)3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013)6178 of 30.9.2013, the Commission shall establish, by means of implementing acts, additional technical specifications, relating to the following:</u>	Rvig2
A. <u>additional security features and requirements, including enhanced anti-forgery, counterfeiting and falsification standards;</u>	
B. <u>technical specifications for the storage medium of the biometric features and their security, including prevention of unauthorised access and facilitated validation;</u>	
C. <u>requirements for quality and common technical standards for the facial image and the fingerprints.</u>	
<u>Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 12b(2).</u>	
2. <u>In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that case they shall be made available only to the point of contact referred to in Article 9(1).</u>	
<b>Article 12b Committee procedure</b>	
<u>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.</u>	
<u>Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no 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.</u>	
<b>Article 13 Entry into force</b>	
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
It shall apply from 42-24 months after its entry into force.	



10.2e

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**Van:**

10.2e

**Verzonden:**

zondag 15 juli 2018 13:59

**Aan:**

10.2e

10.2e

**Onderwerp:**

Instructie

**Bijlagen:**

Instructie RWG Grenzen 16 juli v0.3.docx

Hoi 10.2e

Bijgaand de instructie. Tot morgen!

10.2e



Council of the  
European Union

Brussels, 6 July 2018  
(OR. en)

10843/18

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Interinstitutional File:  
2018/0104 (COD)

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LIMITE

JAI 736  
FRONT 215  
VISA 178  
FAUXDOC 61  
IA 236  
CODEC 1235  
FREMP 120

**NOTE**

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From:	Presidency
To:	Working Party on Frontiers
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

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Delegations will find attached compromise proposals by the Presidency, which will be discussed at the Working Party on Frontiers on 16 July 2018.

Changes vis-à-vis the original Commission proposal are highlighted in **bold** and ~~strikethrough~~.

Changes to the last Presidency compromise proposal, set out in 10317/18, are marked in **bold underline** and ~~strikethrough underline~~.

**ANNEX**

2018/0104 (COD)

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**

(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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right.<sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive<sup>4</sup>.
- (5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents<sup>5</sup>, and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.
- (6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.
- (6a) This regulation does not affect the competence of member states to assign other documents as valid identity documents not meant for travel
- (7) 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 Council,<sup>6</sup> 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 a better access to services.

<sup>3</sup> 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).

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.

<sup>6</sup> 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).

- (8) 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.
- (9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.
- (10) The specifications of the International Civil Aviation Organisation (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.
- (11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.
- (12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. 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 interoperability 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.
- (13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union<sup>7</sup>. Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.
- (14) 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 EU mobile citizen's use of the right to 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.

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<sup>7</sup> OJ L 23, 26.11.2009



- (15) 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 Council Regulation (EC) No 1030/2002<sup>8</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954<sup>9</sup>. In addition to a prove of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.
- (16) 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".
- (17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of ~~five-ten~~ years should be sufficient to strike a balance between the frequency with which ~~documents-identitycards~~ are usually replaced and the need to fill the existing security gap within the European Union. However, for ~~identity~~cards which do not have important features, in particular machine readability, a shorter period of two years is necessary on security grounds. Residence-cards which do not meet the standards will be phased-out in five years.
- (18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>10</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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.
- (19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.

<sup>8</sup> Council Regulation (EC) 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.

<sup>9</sup> OJ L 286 of 1.11.2017, p.9.

<sup>10</sup> OJ L 119, 4.5.2016, p. 1.

- (20) Member States should apply this Regulation at the latest ~~42-24~~ months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.
- (21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making<sup>11</sup> the Commission should 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 the Regulation and the need for any further action.
- (22) 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.
- (23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.

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<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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 **with a validity of more than three 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 comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015). The card shall be made entirely of polycarbonate or equivalent synthetic polymer ~~lasting for at least 10 years~~.<sup>12</sup> ~~The registration of sex is optional~~
- (2) The document title ('Identity card') shall appear in the official language or languages of the issuing Member State ~~and/or~~ at least one other official language of the institutions of the Union.
- (3) 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~~.  
Fingerprints are optional.
- (4) 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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002 in the Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30 9 2013~~.
- (5) ~~Children under the age of 12 years~~ ~~The following persons shall~~ may be exempt from the requirement to give fingerprints.
  - (a) ~~children under the age of 12 years~~

~~Persons whose fingerprinting is physically impossible shall be exempt.~~

Persons who are physically and/or mentally unable to travel may be exempted from the requirement to give fingerprints. Member States shall ensure that appropriate procedures are in place to establish the identity of the person concerned.
- (5a) 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 an identity card having a validity of ~~three months or less~~ one year.
- (5) Member States may enter details and observations for national use as required in the light of their national provisions.
- (6) 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 not interfere with the storage medium referred to in paragraph 3.

Met opmerkingen [WA1]: ICAO has a limited spectrum of allowed definitions. As people look to this document for acceptance it is important to omit the mandatory nature of registration

Met opmerkingen [WA2]: Fingerprints are not proportional to the goal pursued. Civilians cannot be asked for their fingerprint if they aren't used. Especially those civilians that do not travel

Met opmerkingen [WA3]: One Year is the same as for passports. Certain groups cannot give fingerprints due to medication. They shouldn't be forced to renew their documents every three months

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<sup>12</sup> A recital will be added to address the quality of the document and the personalisation technique.



- (7) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
- (8) Where Member States add national security features to the identity cards, the cross-border ~~interoperability~~ **compatibility** of the identity cards and the efficiency of the minimum security standards shall not be diminished.
- (9) Identity cards shall have a maximum period of validity of 10 years. Member States may issue identity cards with longer validity ~~Derogations may be provided for persons beyond a certain age limit provided by national laws~~ **specific age groups**.

#### Article 4

##### Collection of biometric identifiers

- (1) The biometric identifiers shall be **collected live** by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards.
- (2) 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.

#### Article 5

##### Phasing out

Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by ~~five~~ **ten** years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by ~~three~~ **two** years after [the date of application of this Regulation], whichever is earlier.

Met opmerkingen [WA4]: Facial recognition is the basis of identity verification. It is vital the facial image is of high quality and the source is trusted. Live-capture ensures this.

The image should be taken either by a civil servants or by an authorised photographer who then sends the digital file. It shouldn't be allowed to have a person bring a printed photo.



### CHAPTER III

#### RESIDENCE DOCUMENTS FOR UNION CITIZENS

##### Article 6

##### *Minimum information to be indicated<sup>13</sup>*

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

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;
- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (ea) on registration certificates issued in accordance with Article 8 of Directive 2004/38/EC, the date of the registration and the address of the holder;
- (eb) on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;
- (f) date of issue;
- (g) place of place of issue. Issuing authority is optional.issuing authority;

Met opmerkingen [WAS]: The residence permit should include place of issue and issuing authority should be optional

<sup>13</sup> A recital will be added inviting to use ICAO security standards.

## 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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.
- (2) By derogation from paragraph 1, a card ~~shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 ~~may~~ ~~shall~~ ~~may~~ use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively, as referred to in data field [10] in the Annex of Council 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 same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.

#### Article 8

##### Phasing out of existing residence cards

- (4) Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by ~~two-three five~~ years after the date of application of this Regulation], whichever is earlier.

Met opmerkingen [WA6]: May use the standardized code. Member states should have the possibility to decide if they want to use the standardized code on the residence permit or not.

Met opmerkingen [WA7]: one period for the phasing out of existing residence cards

- (5) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on *[the date of entry into force of this Regulation]*, shall cease to be valid at their expiry or by *[five years after the date of application of this Regulation]*, whichever is earlier.

## CHAPTER V

### COMMON PROVISIONS

#### Article 9

##### *Contact point of contact*

- (1) Each Member State shall designate **at least one central authority**. **Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

#### Article 10

##### *Protection of personal data*

- (1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification **~~or erasure and issuance of a new document~~**.
- (2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
- (3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:
  - (a) the authenticity of the identity card or residence document;
  - (b) the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.

## *Article 11*

### *Monitoring*

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 the 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 the monitoring.

## *Article 12*

### *Reporting and Evaluation*

- (1) Four 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.
- (2) No sooner than six years after the date of application of this Regulation, 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.
- (3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

## **Article 12a**

### **Further technical specification**

- (1) **In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Article 1 with future minimum security standards adopted pursuant 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 and as implemented by the provision of Commission Decision C(2002)3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013)6178 of 30.9.2013, 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 and their security, including prevention of unauthorised access and facilitated 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 12b(2).**

**(2) In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that case they shall be made available only to the point of contact referred to in Article 9(1).**

#### **Article 12b**

##### **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 delivers no 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 13*

##### *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 ~~12~~**24** months after its entry into force.

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

Done at Strasbourg,

*For the European Parliament*

*For the Council*

The President    The President



## **INSTRUCTIE RAADSWERKGROEP GRENZEN, DATUM: 26 juni 2018**

### **Essentie NL positie**

#### **Behandelveorbehoud**

- Het NL-parlement heeft het behandelvoorbehoud opgeheven.
- Met het Parlement is afgesproken hen op de hoogte te houden van de besprekingen
- Ook is afgesproken hen, alvorens Nederland stemt, te informeren
- Het Parlement is kritisch op de verplichting van vingerafdrukken en stelt dat het geen proportioneel middel is

#### **Grondslag**

- Nederland blijft vraagtekens plaatsen bij het gebruik van de rechtsgrondslag voor de verordening
- Nederland gaat ervanuit dat de kans groot is dat er in Nederland privacypartijen zijn die juridische procedures tot en met het Hof van Justitie zullen willen voeren

#### **ID-kaarten**

- Nederland stelt dat, gezien de inzet aan de grens op automatische gezicht herkenning, ingezet moet worden op live-capture van de foto. Dit kan ter plaatse of via geautoriseerde fotografen. Foto's worden namelijk altijd gecontroleerd, in tegenstelling tot wat voorzien is met vingerafdrukken
- Nederland erkent het belang van de opname van vingerafdrukken voor het tegengaan van identiteitsfraude en ter bevordering van de interne veiligheid, maar is terughoudend uit proportionaliteitsoverwegingen (Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij afname en opslag van vingerafdrukken op het document) in relatie tot het beoogde doel en de verwezenlijking daarvan. Het ontbreken van grenscontroles aan de binnengrenzen van het Schengengebied vanwege het vrije verkeer van personen en goederen en de tot op heden beperkte controles aan de buitengrenzen van vingerafdrukken uit paspoorten is daarbij relevant.

#### **Vreemdelingendocumenten:**

- NL heeft positieve grondhouding t.a.v. het voorstel dat een set minimumeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers en hun gezinsleden niet EU-leden wordt gesteld.  
NL heeft een voorbehoud bij het voorstel om de documenttitel te vervangen door een codering.

### **Per artikel:**

<b>ANNEX</b>	
2018/0104 (COD)	
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	
(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 Committee , Having regard to the opinion of the Committee of the Regions , Acting in accordance with the ordinary legislative procedure, 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.	
(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive .	
(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	

<p>(6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.</p>	<p>Overwegingen 6, 6a en 6b zouden in de verordening zelf opgenomen moeten worden in plaats van de annex</p>
<p><b><u>(6a) 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.</u></b></p>	
<p><b><u>(6b) Identification documents issued to citizens which expressly indicate that they cannot be used as travel documents should not be considered as falling within the scope of this Regulation.</u></b></p>	<p>Zijn dergelijke documenten alleen voor nationaal gebruik?</p> <p>NL heeft de vervangende ID-kaart voor personen met een uitreisverbod, waarop staat "not valid for travel!". Deze kaart is niet geschikt voor reizen buiten het Schengengebied en bevat geen MRZ, maar een houder van deze kaart kan zich dus wel binnen het Schengengebied verplaatsen. Hoe verhoudt dat zich tot deze verordening? (worden deze documenten na inwerkingtreding van de verordening nog geaccepteerd in andere EU-landen?)</p> <p>Ontstaan hierdoor identiteitskaarten die onder de verordening vallen en identiteitskaarten "not valid for travel" die buiten de verordening vallen, maar waar wel mee gereisd kan worden binnen Schengen?</p> <p>(Wanneer je deze documenten ook binnen Schengen kan gebruiken om te reizen, creëer je dan geen stroom aan id-kaarten die buiten de verordening kunnen vallen? Is VZ zich daarvan bewust / hoe kijkt VZ daartegenaan?)</p>
<p>(7) 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 Council, 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 a better access to services.</p>	<p>overweging 7 zou in de verordening zelf moeten worden genomen in plaats van de annex</p>
<p>(8) 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. <b><u>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.</u></b></p>	
<p>(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.</p>	
<p>(10) The specifications of the International Civil Aviation</p>	

Organisation (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.	
(11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.	
(12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. <b><u>Moreover, Member States should exchange the information necessary to authenticate the chip and to access and verify the biometric data of the holder of these documents.</u></b> 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 <b><u>interoperability compatibility</u></b> 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.	
<b><u>(12a) 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 should consider collecting biometric identifiers, especially the facial image, by means of live enrolment by the national authorities issuing identity cards.</u></b>	Instemmen met toevoeging
(13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.	
(14) 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 EU mobile citizen's use of the right to 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. <b><u>Member States may issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.</u></b>	
(15) 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 Council 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 <del>a</del> <b><u>proving</u></b> of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.	

<p>(16) 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". <b><u>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.</u></b></p>	<p>Voorbehoud plaatsen: De toevoeging heeft een gelijke strekking als artikel 7(2). Heeft het toegevoegde waarde om dit ook hier op te nemen?</p> <p>NL handhaaft op artikel 7(2) het voorbehoud bij de verplichting om de code op te nemen op de kaart. LS moeten zelf kunnen bepalen of zij de codering in de titel van de verblijfsdocumenten willen opnemen. Dat voorbehoud geldt dus ook voor deze toevoeging.</p>
<p>(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of <b><u>ten years for identity cards</u></b> and five years <b><u>for residence cards</u></b> should be sufficient to strike a balance between the frequency with which documents are usually replaced and the need to fill the existing <b><u>security</u></b> gap within the European Union. However, for cards which do not have important security features, <b><u>in particular or are not</u></b> machine readability, a shorter period of <b><u>two three</u></b> years is necessary on security grounds.</p>	<p>Instemmen met wijziging. Maar wanneer de vervangende ID-kaart binnen de verordening komt te vallen dan <b><u>voorbehoud</u></b> op de drie jaar. De vervangende ID-kaart is 5 jaar geldig, NL wil dit ook zo houden.</p>
<p>(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) applies. It is necessary to further specify safeguards applicable to the processed personal data. 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 <b><u>by way of issuance of a new document.</u></b></p>	
<p>(19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. <b><u>All national data should be physically or logically separated from biometric data referred to in this Regulation.</u></b></p>	<p>In de huidige situatie is de aanvraagdata niet gescheiden van biometrische data in de Reisdocumenten aanvraag en archiefstations. Met de vernieuwing wordt daar wel aan gewerkt. Mogelijk is dat in 2021 / 2022 gereed.</p> <p>Hoe is dit bij andere lidstaten geregeld? Moet dit bij deze verordening geregeld worden of bij nationale wetgeving?</p>
<p>(20) Member States should apply this Regulation at the latest <b><u>12 24</u></b> months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.</p>	<p>Zie opmerking bij 19. Indien de 24 maanden aansluiten op 2021 / 2022 dan instemmen, anders voorbehoud in relatie tot de verplichting de biometrische data gescheiden op te slaan.</p>
<p>(21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making the Commission should carry out an evaluation of this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the</p>	

actual effects of the Regulation and the need for any further action.	
(22) 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.	
(23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.	
<b>CHAPTER I</b>	
<b>SUBJECT MATTER, SCOPE AND DEFINITIONS</b>	
<i>Article 1 Subject matter</i>	
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.	
<i>Article 2 Scope</i>	
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 <u>with a validity of more than three twelve months;</u>	
(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.	
<b>CHAPTER II</b>	
<b>NATIONAL IDENTITY CARDS</b>	
<i>Article 3</i>	
<i>Security standards/format/specifications</i>	
(1) Identity cards issued by Member States shall be produced in ID-1 format and shall <u>comply contain a machine-readable zone (MRZ). They shall be based on the specifications and with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) and shall comply with the requirements as set out in letters (c), (d), (f) and (g) of the Annex of Council Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU)</u>	<p>Nederland geeft aan mensen met een uitreisverbod een vervangende identiteitskaart waarop staat dat deze buiten Schengen niet geldig is. Deze bevat geen Machine uitleesbare zone. In het huidige voorstel worden deze uitgesloten van de verordening (Overweging 6b) . Afgevraagd wordt of dit een voldoende oplossing is in relatie tot de doelstelling die VZ met deze verordening wil bereiken.</p> <p>Betekent het optioneel maken van de sekserregistratie in de visual zone dat dit wel nog in de MRZ en de chip moet worden opgenomen? NL heeft voorkeur om sekserregistratie voor het</p>



<p><b>2017/1954. The inclusion of 'sex' in the visual inspection zone shall be optional. The card shall be made entirely of polycarbonate or equivalent synthetic polymer.</b></p>	<p>hele document optioneel te maken.</p> <p>Daarnaast wordt afgevraagd of landen afzonderlijk kunnen beslissen over het opnemen van de seksregistratie of is het optioneel voor burgers. Hoe interpreteert VZ het begrip optioneel? Indien het optioneel voor landen is, en dus vrijheid biedt om zelf te beslissen hoe dat toe te passen dan instemmen.</p>
<p>(2) The document <b>shall bear the title</b> ('Identity card') <b>shall appear in or another well-established national designation in</b> the official language or languages of the issuing Member State, <b>and of 'identity card' in</b> at least one other official language of the institutions of the Union.</p>	
<p>(3) 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.</p>	<p>Nederland acht de verplichting van vingerafdrukken niet proportioneel in het licht van de rechtsgrondslag die ziet op vrij verkeer. In de binnengrenzen van Schengen kan tussen landen gereisd worden zonder dat vingerafdrukken worden uitgelezen.</p>
<p>(4) 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 <b>and secured as provided for in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002. Member States shall exchange the information necessary to authenticate the chip and to access and verify the biometric data.</b></p>	<p>Opgemerkt moeten worden dat -volgens de afspraken rond paspoorten- lidstaten moeten aantonen conform de regels met de vingerafdrukken om te gaan. Daarom verwijzing naar de audits voorstellen.</p> <p><i>In het kader van uitlezen van de chip door andere landen: JustID is voor Nederland aangewezen als SPOC (Single Point of Contact) Nederland voldoet (evenals een aantal andere EU-lidstaten) nog niet aan alle criteria-om-certificaten via SPOCs met andere landen te delen.</i></p>
<p>(5) <b>Children under the age of 12 years</b><del>The following persons shall</del> may be exempt from the requirement to give fingerprints.</p> <p>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 an identity card having a validity of <del>three</del> <b>twelve</b> months or less.</p> <p>(a) <del>children under the age of 12 years:</del></p> <p><b>Persons whose fingerprinting is physically impossible shall be exempt.</b></p>	<p>Instemmen met de verlenging van drie naar twaalf maanden. Hiermee wordt de NIK in overeenstemming met het Paspoort gebracht.</p> <p>T.a.v. 'physically impossible to take fingerprints': Nederland zou daaronder graag willen begrijpen dat de mensen die vanwege zwaarwegende redenen langdurig niet naar de ambassade kunnen reizen, bijvoorbeeld vanwege lichamelijk of geestelijke beperking zoals ziekte of ouderdom. In de meeste landen hebben ook deze mensen te maken met een identificatieplicht en zij komen niet altijd in aanmerking voor een lokale ID. De afstanden in het buitenland naar een Nederlandse ambassade of consulaat zijn soms erg groot.</p> <p>Hoe lossen andere lidstaten dat op? Is het aan de lidstaten vrij om zelf te bepalen wanneer iemand fysiek niet in staat is?</p> <p>NB: Indien de aanvrager niet kan verschijnen voor de aanvraag van een Nederlandse identiteitskaart dient hij dat met een verklaring aan te tonen. Uit de verklaring moet blijken dat de aanvrager om fysieke dan wel psychische redenen langdurig niet in staat is persoonlijk te verschijnen. De verklaring kan, afhankelijk van de specifieke situatie, afgegeven worden door bijvoorbeeld een arts (ziekte) of directeur van een zorginstelling (voorbeeld dementie).</p> <p>In zo'n geval dient op alternatieve wijze en op afstand de identiteit van de aanvrager te worden vastgesteld. Dit kan door middel van een door de aanvrager te overleggen verklaring van een lokale autoriteit, arts of een notaris.</p>
<p>(5a) <b>For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence</b></p>	

<b><u>permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.]</u></b>	
(6)	Member States may enter details and observations for national use as required in the light of their national provisions.
(7)	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 not interfere with the storage medium referred to in paragraph 3.
(8)	Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
(9)	Where Member States add national security features to the identity cards, the cross-border <del>interoperability compatibility</del> of the identity cards and the efficiency of the minimum security standards shall not be diminished.
(10)	Identity cards shall have a maximum period of validity of 10 years. <del>Member States may issue identity cards with longer validity. Derogations may be provided for persons beyond a certain age limit provided by national law specific age groups.</del>
<i>Article 4</i>	
<i>Collection of biometric identifiers</i>	
(1)	<p>The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. <b><u>In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person at least once during the enrolment process.</u></b></p> <p>Onder "qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards" wil buza ook graag verstaan: frontoffice van een consulaire post, een externe dienstverlener en in geval van zwaarwegende redenen en indien langdurig niet in staat om te reizen: ook voor een notaris of lokale autoriteit.</p> <p>Is dit in overeenstemming met hoe de Commissie dit ziet?</p>
(2)	<p>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.</p> <p>Wat bedoelt VZ met "procedures to guarantee the dignity of the person concerned?"</p> <p>NL heeft procedures voor wanneer iemand geen vingerafdrukken of handtekening kan afgeven. Die is zo ingericht dat dit niet zichtbaar kenbaar gemaakt wordt op het document. Is dat wat VZ bedoelt?</p>
<i>Article 5</i>	
<i>Phasing out</i>	
<p>Identity cards which do not meet the requirements of Article 3 <b><u>but contain a functional machine-readable zone (MRZ) which is readable by the systems deployed by all Member States</u></b> shall cease to be valid at their expiry or by <del>five</del> ten years after [the date of application of the Regulation], whichever is earlier.</p> <p>However, identity cards which:</p> <ul style="list-style-type: none"> <li>- <b><u>do not meet the minimum security standards set out in ICAO document 9303 part 3 (seventh edition, 2015), or</u></b></li> <li>- <b><u>do not include a functional machine-readable zone (MRZ) as referred to in the first sentencecompliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease</u></b></li> </ul>	
De huidige vervangende ID-kaart bevat geen MRZ. Echter volgens overweging (6b) zou deze buiten de verordening vallen.	

to be valid at their expiry or by <del>three</del> <b>two</b> years after [ <i>the date of application of this Regulation</i> ], whichever is earlier.	
<b>CHAPTER III</b>	
<b>RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	
<i>Article 6</i>	
<i>Minimum information to be indicated</i> (A recital will be added inviting to use ICAO security standards)	
Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	
(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	
(b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;	
(c) document number;	
(d) name (surname and forename(s)) of the holder;	
(e) date of birth of the holder;	
(ea) on registration certificates issued in accordance with Article 8 of Directive 2004/38/EC, the date of the registration and the address of the holder <u>at the time of issuing</u> ;	
(eb) on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;	
(f) <u>date of issue</u> ;	
(g) <u>place of issuing authority</u> .	NL handhaaft voorbehoud, NL heeft eerder aangegeven dat wij place of issue op document willen hebben ipv issuing authority
<b>CHAPTER IV</b>	
<b>RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	
<i>Article 7</i>	
<i>Uniform format</i>	
(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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.	
(2) By derogation from paragraph 1, a card <del>shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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</del>	NL handhaaft voorbehoud bij de verplichting om de code op te nemen op de kaart. LS moeten zelf kunnen bepalen of zij de codering in de titel van de verblijfsdocumenten willen opnemen

Member States <del>may</del> shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', <u>respectively in data field [10] as referred to in the Annex of Council 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.</u>	
(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 same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.	
<i>Article 8</i>	
<i>Phasing out of existing residence cards</i>	
(4) Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by <del>two</del> <b>three</b> years after the date of application of this Regulation], whichever is earlier.	NL acht van belang dat voor de eenduidigheid één termijn wordt gehanteerd voor de uitfasering van de documenten, bij voorkeur 5 jaar. Daarom voorbehoud bij de 3 jaar
(5) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.	
<b>CHAPTER V</b>	
<b>COMMON PROVISIONS</b>	
<i>Article 9 <del>Contact-point of contact</del></i>	
(1) Each Member State shall designate <b>at least one central authority. Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact point of contact</b> 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.	NL kan instemmen met wijziging
(2) Member States shall ensure that the contact points are aware of and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.	
<i>Article 10 Protection of personal data</i>	

(1)	Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification <del>or erasure and issuance of a new document</del> .	
(2)	Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.	
(3)	Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:	
(a)	the authenticity of the identity card or residence document;	
(b)	the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.	
<i>Article 11 Monitoring</i>		
By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.		
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 the 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 the monitoring.		
<i>Article 12 Reporting and Evaluation</i>		
(1)	Four 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.	
(2)	No sooner than six years after the date of application of this Regulation, 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.	
(3)	Member States shall provide the Commission with the information necessary for the preparation of the reports.	
<i>Article 12a</i>		
<b>Further technical specification</b>		
1.	In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Articles 2(a) and 2(c) <del>±</del> 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 and their security, including prevention of unauthorised access and facilitated 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 12b(2).	
2. In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that case, they shall be made available only to the <u>bodies designated by the Member States as responsible for printing and to persons duly authorised by a Member State or the Commission point of contact referred to in Article 9(1).</u>	
3. <u>Each Member State shall designate one body having responsibility for printing identity cards and residence cards of family members of Union citizens. It shall communicate the name of that body to the Commission and the other Member States. The same body may be designated by two or more Member States. Each Member State shall be entitled to change its designated body. It shall inform the Commission and the other Member States accordingly.</u>	NL wil hierop een voorbehoud. In NL ligt de ambtelijke verantwoordelijkheid voor deze documenten bij twee organisaties. De producent is wel dezelfde, maar dit gaat volgens verschillende contracten en contracthouders. Dit betekent immers het samenbrengen van het contract voor productie van ID-kaarten met het contract van verblijfsdocumenten. Departementen (BZK en J&V) moeten de vrijheid houden om in afwijking van elkaar een andere producent aan te kunnen wijzen.
<b>Article 12b Committee procedure</b> 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.	
Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply. Where the committee delivers no 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.	
<i>Article 13 Entry into force</i>	
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
It shall apply from <del>42-24</del> months after its entry into force.	



10.2e

**Van:** 10.2e  
**Verzonden:** woensdag 12 september 2018 16:50  
**Aan:** 10.2e 10.2e  
**Onderwerp:** voorbereidingen RWG + concept instructie  
**Bijlagen:** Instructie RWG Grenzen 14 september v0.3.docx

Ha 10.2e

Lukt het allemaal met de voorbereidingen voor de RWG?

Ik zag dat 10.2e het niet helemaal eens was met de opsomming, is dat nog goed gekomen of heb je daar nog extra input voor nodig?

Hoe laat wil je morgen de conceptinstructie hebben? Alles is al verwerkt, maar de ervaring leert dat er vast nog wel iemand met een nabrander komt.

In de bijlage vind je in ieder geval de instructie waarin tot nu toe alles verwerkt is.

Met vriendelijke groet,

10.2e



Council of the  
European Union

Brussels, 7 September 2018  
(OR. en)

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Interinstitutional File:  
2018/0104(COD)

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11888/1/18  
REV 1

LIMITE

JAI 853  
FRONT 270  
VISA 222  
FAUXDOC 79  
IA 268  
CODEC 1416  
FREMP 134

**NOTE**

From:	Presidency
To:	Working Party on Frontiers
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

Delegations will find attached compromise proposals by the Presidency, which will be discussed at the Working Party on Frontiers on 14 September 2018.

Changes vis-à-vis the original Commission proposal are highlighted in **bold** and ~~striketrough~~.

Changes to the last Presidency compromise proposal, set out in 10843/18, are marked in **bold underline** and ~~striketrough underline~~.

**ANNEX**

2018/0104 (COD)

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**

(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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right.<sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive<sup>4</sup>.
- (5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents<sup>5</sup>, and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.
- (6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.
- (6a) 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.**
- (6b) Identification documents issued to citizens which expressly indicate that they cannot be used as travel documents should not be considered as falling within the scope of this Regulation.**
- (7) 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

<sup>3</sup> 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).

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.

Met opmerkingen [WA1]: This should be put under article2: scope

Regulation (EU) No.910/2014 of the European Parliament and of the Council,<sup>6</sup> 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 a better access to services.

- (8) 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.**
- (9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.
- (10) The specifications of the International Civil Aviation Organisation (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.
- (11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.
- (12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. **Moreover, Member States should exchange the information necessary to authenticate the chip and to access and verify the biometric data of the holder of these documents.** 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 interoperability 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.
- (12a) 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 should consider collecting biometric identifiers, especially the facial image, by means of live enrolment by the national authorities issuing identity cards.**

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<sup>6</sup> 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).



- (13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union<sup>7</sup>. Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.
- (14) 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 EU mobile citizen's use of the right to 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 may issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.
- (15) 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 Council Regulation (EC) No 1030/2002<sup>8</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954<sup>9</sup>. In addition to ~~a proving of~~ the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.
- (16) 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.
- (17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a 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 European Union. However, for cards which do not have important security features, in particular or are not machine readable, a shorter period of two three years is necessary on security grounds.
- (18) With regard to the personal data to be processed in the context of the application of this Regulation, 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)<sup>10</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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

Met opmerkingen [WA2]: The standardisation is already in article 7(2)

<sup>7</sup> OJ L 23, 26.11.2009

<sup>8</sup> Council Regulation (EC) 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.

<sup>9</sup> OJ L 286 of 1.11.2017, p.9.

<sup>10</sup> OJ L 119, 4.5.2016, p. 1.



access to personal data processed in their identity cards and residence documents and have them rectified by way of issuance of a new document.

- (19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.
- (20) Member States should apply this Regulation at the latest ~~12~~ 24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.
- (21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making<sup>11</sup> the Commission should 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 the Regulation and the need for any further action.
- (22) 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.
- (23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.

Met opmerkingen [WA3]: This will take more time than 24 months as there is already a system in place. We do agree with the intent. However, such a system cannot be replaced in two years.

<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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 with a validity of more than three twelve 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.

**This regulation does not apply to:**

**(e) Identification documents issued to citizens which expressly indicate that they cannot be used as travel documents.**

Met opmaak: Tekstkleur: Tekst 1

Met opmaak: Point 0 (number), Geen opsommingstekens of numbering

**Met opmerkingen [WA4]:** Travel as used here is an unclear definition. In our view there is no 'travel' within the Schengen area as citizens have the right to move within Schengen and can reside where they want. Travel therefore is always to outside of the Schengen borders. We issue ID-cards valid 5 years with such travel restrictions to for instance people who have an exliban.

If by travel is meant to move outside of a memberstate the document should indicate 'for national use only'. However we think that this is very hard to enforce and might not stand in court as citizens have the right to move within the Schengen area.

It should be made clear what not meant for travel means. The definitions above both have some repercussions.

Met opmaak: Lettertype: Vet, Onderstrepen, Tekstkleur: Auto



## 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 comply contain a machine-readable zone (MRZ). They shall be based on the specifications and with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) and shall comply with the requirements as set out in letters (c), (d), (f) and (g) of the Annex of Council 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. The inclusion of 'sex' in the visual inspection zone shall be optional. The card shall be made entirely of polycarbonate or equivalent synthetic polymer.
- (2) The document shall bear the title ('Identity card') shall appear in or another well-established national designation in the official language or languages of the issuing Member State, and or 'identity card' in at least one other official language of the institutions of the Union.
- (3) 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 are optional.
- (4) 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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002. The eMember States shall exchange of the information necessary to authenticate the chip and to access and verify the biometric data will follow the same path as the certificates for passports.
- (5) Children under the age of 12 years ~~The following persons shall~~ may be exempt from the requirement to give fingerprints.:

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 an identity card having a validity of three twelve months or less.

(a) ~~children under the age of 12 years;~~

Persons whose fingerprinting is physically impossible shall be exempt.

People who do not reside in their parent memberstate and who have to travel great distances to renew their documents and who are unfit for travel can be exempt from fingerprints. Their identity can be verified by authorised personnel.

- (5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing

Met opmerkingen [WA5]: For the exchange of passport-certificates Memberstates have to prove to use the data as agreed upon, among other things. A lot of memberstates still do not meet the requirements for exchange. This is the only way to build the required trust.

**technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.]<sup>12</sup>**

- (6) Member States may enter details and observations for national use as required in the light of their national provisions.
- (7) 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 not interfere with the storage medium referred to in paragraph 3.
- (8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
- (9) Where Member States add national security features to the identity cards, the cross-border ~~interoperability~~ **compatibility** of the identity cards and the efficiency of the minimum security standards shall not be diminished.
- (10) Identity cards shall have a maximum period of validity of 10 years. **Member States may issue identity cards with longer validity** ~~Derogations may be provided for persons beyond a certain age~~ **60 years, limit** ~~provided by national laws~~ **specific age groups.**

<sup>12</sup> **The reference will be updated in the light of the ongoing revision of this implementing decision.**

#### Article 4

##### Collection of biometric identifiers

- (1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person at least once during the enrolment process. Biometrics will be captured live at this moment.
- (2) 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.

#### Article 5

##### Phasing out

Identity cards which do not meet the requirements of Article 3 but contain a functional machine-readable zone (MRZ) which is readable by the systems deployed by all Member States shall cease to be valid at their expiry or by ~~five~~ **ten** years after *[the date of application of the Regulation]*, whichever is earlier.

However, identity cards which:

- do not meet the minimum security standards set out in ICAO document 9303 part 3 (seventh edition, 2015), or
- do not include a functional machine-readable zone (MRZ) as referred to in the first sentence compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by ~~three~~ **two** years after *[the date of application of this Regulation]*, whichever is earlier.



### CHAPTER III

#### RESIDENCE DOCUMENTS FOR UNION CITIZENS

##### Article 6

##### *Minimum information to be indicated*

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

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;
- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (ea) on registration certificates issued in accordance with Article 8 of Directive 2004/38/EC, the date of the registration and the address of the holder at the time of issuing;
- (eb) on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;
- ~~(f) date of issue;~~
- (g) ~~place of issuing authority~~ Place of issue

Met opmaak: Niet Doorhalen  
Met opmaak: Niet Doorhalen  
Met opmaak: Niet Doorhalen



## 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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.
- (2) By derogation from paragraph 1, a card ~~shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may~~ shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', ~~respectively in data field [10] as referred to in the Annex of Council 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 same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.

#### Article 8

##### *Phasing out of existing residence cards*

- (4) Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by ~~two~~ three-five years after the date of application of this Regulation], whichever is earlier.

- (5) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third-country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on *[the date of entry into force of this Regulation]*, shall cease to be valid at their expiry or by *[five years after the date of application of this Regulation]*, whichever is earlier.

## CHAPTER V

### COMMON PROVISIONS

#### *Article 9*

##### *Contact point of contact*

- (1) Each Member State shall designate **at least one central authority. Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

#### *Article 10*

##### *Protection of personal data*

- (1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification **or erasure and issuance of a new document**.
- (2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
- (3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:
  - (a) the authenticity of the identity card or residence document;
  - (b) the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.

## *Article 11*

### *Monitoring*

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 the 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 the monitoring.

## *Article 12*

### *Reporting and Evaluation*

- (1) Four 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.
- (2) No sooner than six years after the date of application of this Regulation, 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.
- (3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

## **Article 12a**

### **Further technical specification**

- (1) **In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Articles 2(a) and 2(c) ~~1~~ 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 and their security, including prevention of unauthorised access and facilitated 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 12b(2).

- (2) In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that 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 point of contact referred to in Article 9(1).
- (3) Each Member State shall designate ~~one body~~ one or more bodies having responsibility for printing identity cards and residence cards of family members of Union citizens. It shall communicate the name of ~~that body~~ those bodies to the Commission and the other Member States. The same body may be designated by two or more Member States. Each Member State shall be entitled to change its designated bodies. It shall inform the Commission and the other Member States accordingly.

#### Article 12b

##### 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 delivers no 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 13

##### 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 ~~42~~ 24 months after its entry into force.

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

Done at Strasbourg,

*For the European Parliament*

*For the Council*

The President    The President

## **INSTRUCTIE RAADSGROEP GRENZEN, DATUM: 4 oktober 2018**

### **Essentie NL positie**

#### **Behandelvoorbehoud**

- Met het Parlement is afgesproken hen op de hoogte te houden van de besprekingen
- Ook is afgesproken hen, alvorens Nederland stemt, te informeren
- Het Parlement is kritisch op de verplichting van vingerafdrukken en stelt dat het geen proportioneel middel is

#### **Grondslag**

- Nederland blijft vraagtekens plaatsen bij het gebruik van de rechtsgrondslag voor de verordening
- Nederland gaat ervanuit dat de kans groot is dat er in Nederland privacypartijen zijn die juridische procedures tot en met het Hof van Justitie zullen willen voeren

#### **ID-kaarten**

- Nederland stelt dat, gezien de inzet aan de grens op automatische gezicht herkenning, ingezet moet worden op live-capture van de foto. Dit kan ter plaatse of via geautoriseerde fotografen. Foto's worden namelijk altijd gecontroleerd, in tegenstelling tot wat voorzien is met vingerafdrukken
- Nederland erkent het belang van de opname van vingerafdrukken voor het tegengaan van identiteitsfraude en ter bevordering van de interne veiligheid, maar is terughoudend uit proportionaliteitsoverwegingen (Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij afname en opslag van vingerafdrukken op het document) in relatie tot het beoogde doel en de verwezenlijking daarvan. Het ontbreken van grenscontroles aan de binnengrenzen van het Schengengebied vanwege het vrije verkeer van personen en goederen en de tot op heden beperkte controles aan de buitengrenzen van vingerafdrukken uit paspoorten is daarbij relevant.

#### **Vreemdelingendocumenten:**

- NL heeft positieve grondhouding t.a.v. het voorstel dat een set minimeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers en hun gezinsleden niet EU-leden wordt gesteld.

NL heeft een voorbehoud bij het voorstel om de documenttitel te vervangen door een codering.



ANNEX	
2018/0104 (COD)	
<b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>	
<b>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</b>	
(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 Committee <sup>1</sup> ,	
Having regard to the opinion of the Committee of the Regions <sup>2</sup> ,	
Acting in accordance with the ordinary legislative procedure,	
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.	
(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. <sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) Article 35 of Directive 2004/38/EC provides that Member States may adopt the necessary measures to refuse, terminate or withdraw any	

<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

<sup>3</sup> 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)

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 the Directive <sup>4</sup> .	
(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents <sup>5</sup> , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	
(6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.	
<b>(6a) 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.</b>	
<b>(6b) Identification documents issued to citizens which expressly indicate that they cannot be used as travel documents should not be considered as falling within the scope of this Regulation.</b>	Wij zien graag dat onder 'not meant for travel' verstaan wordt dat de kaart wel gebruikt kan worden om binnen schengen te bewegen. Handhaving hiervan is alleen bij grenzen met grenscontrole mogelijk
(7) 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 Council, <sup>6</sup> 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 a better access to services.	
(8) 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. <b>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.</b>	Akkoord, maar kan duidelijker verwoord worden.
(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.	
(10) The specifications of the International Civil Aviation Organisation (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.	
(11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.	
(12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those	Nederland wil aansluiten bij de regeling zoals getroffen voor paspoorten. De uitwisseling van certificaten geschied niet eenmalig en

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.

<sup>6</sup> 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).

documents when EU citizens exercise their free movement rights. <b>Moreover, Member States should exchange the information necessary to authenticate the chip and to access and verify the biometric data of the holder of these documents.</b> 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 interoperability 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.	is complexer dan hier omschreven Toestemming kan ook weer ingetrokken worden. Dit is een bilaterale aangelegenheid.  De verordening biedt veel regels voor lidstaten in de omgang met de biometrie van eigen burgers ten behoeve van uitgifte van documenten. Voor de biometrie die afgenomen wordt ter verificatie ten opzichte van het brondocument moet dit explicieter. Bovenstaande maatregel is hierin erg belangrijk.
<b>(12a) 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 should consider collecting biometric identifiers, especially the facial image, by means of live enrolment by the national authorities issuing identity cards.</b>	Nederland is voorstander van Live enrollment  "should consider" is een te vage tekst Een lidstaat kan dit simpelweg afdoen met dat het overwogen is. Bij voorkeur wordt er een deadline van invoeren toegevoegd, bijvoorbeeld vijf jaar. Live capture van biometrie is een zeer belangrijke voorwaarde voor een kwalitatief en betrouwbaar document.
(13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union <sup>7</sup> . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged. <b>Member States should also explore solutions to issue identity cards to persons incapable of visiting the authorities responsible for issuing identity cards.</b>	
(14) 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 EU mobile citizen's use of the right to 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. <b>Member States may issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.</b>	NL heeft positieve grondhouding.
(15) 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 Council Regulation (EC) No 1030/2002 <sup>8</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954 <sup>9</sup> . In addition to a proving of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory	
(16) 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". <b>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.</b>	Zie voorbehoud NL mbt de codering
(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of <b>ten years for identity cards and five years for residence cards</b> 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 European Union. However, for cards which do not have important security features, <del>in particular or are not machine readable</del> , a shorter period of <del>two</del> <b>three</b> years is necessary on security grounds.	Zie standpunt NL m.b.t. de termijn van 3 jaar.
(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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	

<sup>7</sup> OJ L 23, 26 11 2009

<sup>8</sup> Council Regulation (EC) 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.

<sup>9</sup> OJ L 286 of 1.11.2017, p.9.

free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) <sup>10</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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 <b>by way of issuance of a new document.</b>	
(19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.	
<b><u>(19a) In order to ensure that future security standards and technical specifications adopted pursuant 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 can duly be taken into account, where appropriate, for identity cards and residence documents, 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 Council. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95. Where necessary, implementing acts may remain secret in order to prevent the risk of counterfeiting and falsifications.</u></b>	Dit is erg onspecifiek. Er zijn geen kaders gegeven waarbinnen de commissie kan opereren. Onduidelijk is wanneer de commissie mag ingrijpen en of dit met het geld van de lidstaten moet gebeuren. Eerst duidelijkheid, dan pas kunnen we aangeven hoe wie hierin staan als Nederland.
(20) Member States should apply this Regulation at the latest 24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.	
(21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making <sup>11</sup> the Commission should 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 the Regulation and the need for any further action.	
(22) 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.	
(23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.	
HAVE ADOPTED THIS REGULATION:	
<b>CHAPTER I</b>	
<b>SUBJECT MATTER, SCOPE AND DEFINITIONS</b>	
<i>Article 1</i>	

<sup>10</sup> OJ L 119, 4.5.2016, p. 1.

<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

<i>Subject matter</i>	
<p>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.</p>	
<i>Article 2</i>	
<i>Scope</i>	
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 <b>with a validity of more than twelve months,</b>
(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.
<b>CHAPTER II</b>	
<b>NATIONAL IDENTITY CARDS</b>	
<i>Article 3</i>	
<i>Security standards/format/specifications</i>	
(1)	Identity cards issued by Member States shall be produced in ID-1 format and shall <del>comply</del> <b>contain a machine-readable zone (MRZ). They shall be based on the specifications and with</b> the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) <b>and shall comply with the requirements as set out in letters (c), (d), (f) and (g) of the Annex of Council 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. The inclusion of 'sex' in the visual inspection zone shall be optional.</b>
(2)	The document <b>shall bear the title ('Identity card')</b> <del>shall appear in or another well-established national designation in the</del> official language or languages of the issuing Member State, <b>and 'identity card' in</b> at least one other official language of the institutions of the Union.
(3)	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 <b>digital</b> formats
(4)	<p>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 <del>and secured as provided for in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002. Member States shall exchange the information necessary to authenticate the chip-storage medium and to access and verify the biometric data referred to in paragraph 3.</del></p> <p>Zie opmerking bij overweging 12:</p> <p>Nederland wil aansluiten bij de regeling zoals getroffen voor paspoorten. De uitwisseling van certificaten geschied niet eenmalig en is complexer dan hier omschreven. Toestemming kan ook weer ingetrokken worden. Dit is een bilaterale aangelegenheid.</p> <p>De verordening biedt veel regels voor lidstaten in de omgang met de biometrie van eigen burgers ten behoeve van uitgifte van documenten. Voor de biometrie die afgenomen wordt ter verificatie ten opzichte van het brondocument moet dit explicieter. Bovenstaande maatregel is</p>

	hierin erg belangrijk.
<p>(5) <b>Children under the age of 12 years</b><del>The following persons shall</del>  <del>may be exempt from the requirement to give fingerprints.</del></p> <p>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 an identity card having a validity of twelve months or less.</p>	<p>Aan kinderen onder de 12 worden documenten verstrekt van 5 jaar geldigheid. In het geval dat voor een kind van 10 een identiteitskaart wordt aangevraagd. Is deze dan geldig tot hij 15 is? Accepteerd de commissie dat een kind van boven de twaalf een document heeft dat hij onder de leeftijd van twaalf ontvangen heeft en dus geen vingerafdrukken bevat?</p> <p>Nederland wil de verordening zo lezen dat als een kind van 11 een kaart ontvangt deze tot zijn 16<sup>e</sup> geldig is en derhalve geen vingerafdrukken hoeft te bevatten.</p>
(a) — children under the age of 12 years;	
<del>Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints</del>	
(5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.] <sup>12</sup>	
(6) Member States may enter details and observations for national use as required in the light of their national provisions.	
(7) 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 not interfere with the storage medium referred to in paragraph 3.	
(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.	
(9) Where Member States add national security features to the identity cards, the cross-border interoperability compatibility of the identity cards and the efficiency of the minimum security standards shall not be diminished.	
(10) Identity cards shall have a maximum period of validity of 10 years. <del>Member States may issue identity cards with longer validity of up to 20 years. Derogations may be provided for persons aged 65 and above beyond a certain age limit provided by national law specific age groups. Identity cards issued to children under the age of 12 shall have a maximum period of validity of 5 years.</del>	Akkoord.
Article 4	
Collection of biometric identifiers	
(1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. <b>In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person for each application at least once during the enrolment process.</b>	
<b>When issuing a new identity card following loss or theft, Member States may decide not to require the applicant to appear in person, if the identity of the applicant can be established using other reliable and</b>	Vingerafdrukken worden nu verwijderd zodra het document is uitgegeven. Voor mensen in het buitenland is er de behoefte om tijd te laten verstrijken tussen de aanvraag en het maken en uitgeven van het



<b><u>relevant data collected in accordance with Union and national law. In that case the validity of this new identity card shall be limited to that of the document replaced.</u></b>	document. Hierdoor kunnen zij biometrie afgeven als het hen uitkomt en hoeven ze niet te reizen voor enkel het verlengen. Zij hebben dan wel de behoefte aan een document met volledige geldigheid. Staat de commissie toe dat voor burgers die dit wensen de biometrie langer opgeslagen word?
(2) 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.	
<i>Article 5</i>	
<i>Phasing out</i>	
<b><u>Identity cards which do not meet the requirements of Article 3 but contain a functional machine-readable zone (MRZ) which is readable by the systems deployed by all Member States shall cease to be valid at their expiry or by five ten years after [the date of application of the Regulation], whichever is earlier.</u></b>	
<b><u>However, identity cards which:</u></b>	
- do not meet the minimum security standards set out in ICAO document 9303 part 2 <del>3</del> (seventh edition, 2015), or	
- do not include a functional machine-readable zone (MRZ) <b><u>which is readable by the systems deployed by all Member States as referred to in the first sentence</u></b> compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by <del>three two</del> years after [the date of application of this Regulation], whichever is earlier.	
<b><u>All other identity cards shall cease to be valid at their expiry or by ten years after [the date of application of the Regulation], whichever is earlier.</u></b>	
<b>CHAPTER III</b>	
<b>RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	
<i>Article 6</i>	
<i>Minimum information to be indicated</i>	
Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	
(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	
(b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;	
(c) document number;	
(d) name (surname and forename(s)) of the holder;	
(e) date of birth of the holder;	
<b>(ea) on registration certificates issued in accordance with Article 8 of Directive 2004/38/EC, the date of the registration and the address of the holder at the time of issuing;</b>	<p>NL heeft geen bezwaar met het opnemen van "the date of registration. NL heeft wel een voorbehoud bij het opnemen van "address of the holder at the time of issuing"</p> <p>De EU onderdaan hoeft zich niet bij IND in te schrijven en hoeft geen verblijfsdocument te hebben. Hij kan dit wel aanvragen en dan moet dit document ook voldoen aan deze regel</p>

	<p>EU onderdaan die langer dan 4 maanden in Nederland wil zijn moet zich wel inschrijven in de BRP als ingezetene. De gemeente geeft een bewijs van inschrijving af. Daar staat een adres op.</p> <p>Als een derdelander familielid verblijf wenst bij de EU onderdaan, dan moet de EU onderdaan zich wel inschrijven bij de IND. De EU burger krijgt dan een sticker Burger van de Unie in zijn paspoort (derdelander gezinslid krijgt wel een verblijfsdocument).</p> <p>Deze sticker bevat geen adres van de houder en dat willen we ook niet (nog daargelaten de vraag of dit mogelijk) is.</p>
(eb) on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;	NL heeft positieve grondhouding, date of issue staat al op de documenten.
(f) <del>date of issue;</del>	
(g) place of issuing authority.	NL handhaaft voorbehoud, NL heeft eerder aangegeven dat wij place of issue op document willen hebben ipv issuing authority
<b>CHAPTER IV</b>	
<b>RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	
<i>Article 7</i>	
<i>Uniform format</i>	
(1)	<p>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 the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.</p>
(2)	<p>By derogation from paragraph 1, a card <del>shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively in data field [10] as referred to in the Annex of Council 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.</del></p>
(3)	<p>Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall respect the same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954.</p>
<i>Article 8</i>	
<i>Phasing out of existing residence cards</i>	
<b><u>Residence cards of family members of Union citizens who are not nationals of a Member State which:</u></b>	Positieve grondhouding
- <b><u>do not meet the minimum security standards set out in ICAO document 9303 part 2 (seventh edition, 2015), or</u></b>	Positieve grondhouding

<p><u>do not include a functional machine-readable zone (MRZ) which is readable by the systems deployed by all Member States shall cease to be valid at their expiry or by three years after [the date of application of this Regulation], whichever is earlier.</u></p>	Positieve grondhouding
<p><u>All other residence cards of family members of Union citizens who are not nationals of a Member State shall cease to be valid at their expiry or by five years after [the date of application of the Regulation], whichever is earlier.</u></p>	Positieve grondhouding
<p><u>(4) Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [two three years after the date of application of this Regulation], whichever is earlier.</u></p>	
<p><u>(5) Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation (EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.</u></p>	
<p><b>CHAPTER V</b></p>	
<p><b>COMMON PROVISIONS</b></p>	
<p><i>Article 9</i></p>	
<p><del>Contact p</del><b>Point of contact</b></p>	
<p>(1) Each Member State shall designate <b>at least one central authority. Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact point of contact</b> 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.</p>	Positieve grondhouding
<p>(2) Member States shall ensure that the contact points are aware of and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.</p>	
<p><i>Article 10</i></p>	
<p><i>Protection of personal data</i></p>	
<p>(1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification <del>or erasure</del> <b>and issuance of a new document.</b></p>	
<p>(2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State</p>	
<p>(3) Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:</p>	
<p>(a) the authenticity of the identity card or residence</p>	

document,	
(b) the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.	
<i>Article 11</i>	
<i>Monitoring</i>	
By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.	
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 the 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 the monitoring.	
<i>Article 12</i>	
<i>Reporting and Evaluation</i>	
(1) Four 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.	
(2) No sooner than six years after the date of application of this Regulation, 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.	
(3) Member States shall provide the Commission with the information necessary for the preparation of the reports.	
<b>Article 12a</b>	
<b>Further technical specification</b>	
(1) In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Articles 2(a) and 2(c) 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(3) and their security, including prevention of unauthorised access and facilitated 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 12b(2).	
(2) In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that 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, <u>respectively</u> , one body	Eerder is aangegeven dat hier meerdere bodies mogelijk waren. Dat is

having responsibility for printing identity cards and <u>one body for</u> residence cards of family members of Union citizens. It shall communicate the name of <del>that</del> <u>these bodies</u> to the Commission and the other Member States. The same body may be designated by <u>the Member State or</u> two or more Member States. Each Member State shall be entitled to change its designated <u>bodies</u> . It shall inform the Commission and the other Member States accordingly.	nog niet doorgevoerd.
<b>Article 12b</b>	
<b>Committee procedure</b>	
(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 delivers no 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.	
<i>Article 13</i>	
<i>Entry into force</i>	
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
It shall apply from <del>12</del> 24 months after its entry into force.	

## INSTRUCTIE RAADSGROEP GRENZEN, DATUM: 22 oktober 2018

### SPOC

Naar aanloop van deze raads werkgroep is enige discussie geweest over de afspraken omtrend de uitwisselings procedure. In de tekst zoals door artikel 6 is goedgekeurd van de uitvoeringsbesluiten rond vreemdelingen documenten en paspoorten wordt onvolledig expliciet verwezen naar BSI TR-03139. In overleg met de commissie is besloten dat deze gelezen dient te worden als een volledige verwijzing. Dit houdt in dat voor de uitwisseling van certificaten en de opbouw van de SPOC BSI TR-03139 In volledigheid gevolgd dient te worden

### 10.2a

**'may-' or 'shall-clause' in Article 7(2),**

Akkoord met het voorgestelde Shall

2018/0104 (COD)	
Proposal for a	
<b>REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL</b>	
<b>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</b>	
(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 Committee <sup>1</sup> ,	

<sup>1</sup> OJ C , , p . .



Having regard to the opinion of the Committee of the Regions <sup>2</sup> ,	
Acting in accordance with the ordinary legislative procedure,	
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.	
(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. <sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive <sup>4</sup> .	
(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents <sup>5</sup> , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	
(6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality	
<b>(6a) 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.</b>	
<b>(6b) Identification documents issued to citizens <u>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.</u></b>	akkoord
(7) This Regulation does not affect the use of identity cards and residence documents with eID function by Member States for other	

<sup>2</sup> OJ C , , p. .

<sup>3</sup> 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).

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.

purposes nor does it affect the rules laid down in Regulation (EU) No 910/2014 of the European Parliament and of the Council, <sup>6</sup> 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 a better access to services.	
(8) 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. <b>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.</b>	
(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.	
(10) The specifications of the International Civil Aviation Organisation (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.	
(11) <del>The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.<sup>7</sup></del>	
(12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. <b>Moreover, Member States should exchange the information necessary to authenticate the chip storage medium and to access and verify the biometric data of the holder of these documents.</b> 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 interoperability 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.	
(12a) <b>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 <del>should</del> could consider collecting biometric identifiers, especially the facial image, by means of live enrolment by the national authorities issuing identity cards.</b>	Nederland is voorstander van Live enrollment  "could consider" is een te vage tekst. Een lidstaat kan dit simpelweg afdoen met dat het overwogen is. Bij voorkeur wordt er een deadline van invoeren toegevoegd, bijvoorbeeld vijf jaar. Live capture van biometrie is een zeer belangrijke voorwaarde voor een kwalitatief en betrouwbaar document.
(13) The Regulation shall <del>respect</del> <b>respects</b> the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union <sup>8</sup> . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged. <b>Member States <del>should</del> could also explore solutions, for example mobile registration devices, to issue identity cards to persons incapable of visiting the authorities responsible for</b>	Akkoord

<sup>6</sup> 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).

<sup>7</sup> PRES: text moved to the operative part.

<sup>8</sup> OJ L 23, 26 11 2009.

<b>issuing identity cards.</b>	
(14) 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 EU mobile citizen's use of the right to 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. <b>Member States may could issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.</b>	Akkoord
(15) 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 Council Regulation (EC) No 1030/2002 <sup>9</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954 <sup>10</sup> . In addition to a proving of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.	
(16) 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". <b>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.</b>	
(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of <b>ten years for identity cards and five years for residence cards</b> 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 European Union. However, for cards which do not have important security features, <del>in particular or are not machine readable</del> , a shorter period of <del>two</del> <b>three</b> years is necessary on security grounds.	
(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>11</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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 <b>by way of issuance of a new document.</b>	
(19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.	
<b><u>(19aa) 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</u></b>	Wordt hier nu gesuggereerd dat lidstaten een database mogen opbouwen met data uit documenten van andere lidstaten als er maar een eigen wetgeving voor is. Kan de verordening dit niet uitsluiten?

<sup>9</sup> Council Regulation (EC) 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.


<sup>10</sup> OJ L 286 of 1.11.2017, p.9.

<sup>11</sup> OJ L 119, 4 5 2016, p. 1.

<u>document and the identity of the holder when the document is required to be produced by law. This is without prejudice to any other use or storage of these data in accordance with national legislation of Member States. This Regulation does not provide a legal base for setting up or maintaining databases for storage of those data in Member States, which is strictly a matter of national law.</u>	
(19a) In order to ensure that future security standards and technical specifications adopted pursuant 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 can duly be taken into account, where appropriate, for identity cards and residence documents, 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 Council. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95. Where necessary, implementing acts may remain secret in order to prevent the risk of counterfeiting and falsifications.	Dit is erg onspecifiek. Er zijn geen kaders gegeven waarbinnen de commissie kan opereren. Onduidelijk is wanneer de commissie mag ingrijpen en of dit met het geld van de lidstaten moet gebeuren. Eerst duidelijkheid, dan pas kunnen we aangeven hoe wie hierin staan als Nederland.
(20) Member States should apply this Regulation at the latest 24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.	
(21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making <sup>12</sup> the Commission should 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 the Regulation and the need for any further action.	
(22) 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.	
(23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.	
HAVE ADOPTED THIS REGULATION:	
<b>CHAPTER I</b>	
<b>SUBJECT MATTER, SCOPE AND DEFINITIONS</b>	
<i>Article 1</i>	
<i>Subject matter</i>	
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.	
<i>Article 2</i>	
<i>Scope</i>	

<sup>12</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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 <b>with a validity of more than twelve months;</b>
(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.
<b>CHAPTER II</b>	
<b>NATIONAL IDENTITY CARDS</b>	
<i>Article 3</i>	
<i>Security standards/format/specifications</i>	
(1)	Identity cards issued by Member States shall be produced in ID-1 format and shall <del>comply contain a machine-readable zone (MRZ). They shall be based on the specifications and with</del> the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015) <del>and shall comply with the requirements as set out in letters (c), (d), (f) and (g) of the Annex of Council 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. The inclusion of 'sex' in the visual inspection zone shall be optional.</del>
(2)	The document <del>shall bear the title ('Identity card') shall appear in or another well-established national designation in the</del> official language or languages of the issuing Member State, <del>and</del> 'identity card' in at least one other official language of the institutions of the Union.
(3)	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 <b>digital</b> formats.
(4)	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 <del>and secured as provided for in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002. Member States shall exchange the information necessary to authenticate the storage medium and to access and verify the biometric data referred to in paragraph 3.</del>
(5)	<b>Children under the age of 12 years</b> <del>The following persons shall may be exempt from the requirement to give fingerprints.</del>
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 an identity card having a validity of twelve months or less.	

(a) — children under the age of 12 years;	
Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints.	
(5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.] <sup>13</sup>	
(6) Member States may enter details and observations for national use as required in the light of their national provisions.	
(7) 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 not interfere with the storage medium referred to in paragraph 3.	
(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.	
(9) Where Member States add national security features to the identity cards, the cross-border interoperability compatibility of the identity cards and the efficiency of the minimum security standards shall not be diminished.	
(10) Identity cards shall have a maximum period of validity of 10 years. Member States may issue identity cards with validity of up to 20 years. Derogations may be provided for persons aged 65 and above specific age groups. Identity cards issued to children under the age of 12 shall have a maximum period of validity of 5 years.	
<i>Article 4</i>	
<i>Collection of biometric identifiers</i>	
(1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person for each application at least once during the <u>enrolment issuance</u> process.	Idealiter staat hier 'during enrolment' omdat juist dit de integriteit van biometrie garandeert. Het druist in tegen best practises en zou geen standaard practise moeten worden.  the latter shall appear in person at least once every ten years during the <u>enrolment issuance</u> process.
<u>When issuing a new identity card following loss or theft, Member States may decide not to require the applicant to appear in person, if the identity of the applicant can be established using other reliable and relevant data collected in accordance with Union and national law. In that case the validity of this new identity card shall be limited to that of the document replaced.</u>	
(2) <u>The procedure for collecting biometric identifiers shall take into account the specific needs of children and shall be carried out in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the Child.</u> 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	akkoord

<sup>13</sup> The reference will be updated in the light of the ongoing revision of this implementing decision.



concerned.	
<i>Article 5</i>	
<i>Phasing out</i>	
(1) Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <del>five</del> <b>ten</b> years after <i>[the date of application of the Regulation]</i> , whichever is earlier. <del>However,</del>	
(2) <u>By way of derogation from paragraph 1:</u>	
(a) Identity cards which <del>do not meet the minimum security standards set out in ICAO document 9303 part 2 (seventh edition, 2015); or do not include a functional machine-readable zone (MRZ), which is readable by the systems deployed by all Member States</del> compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by <del>two three</del> <b>five</b> years after <i>[the date of application of this Regulation]</i> , whichever is earlier;	
(b) <u>identity cards of persons aged 75 and above at [the date of application of the Regulation] which meet the minimum security standards set out in ICAO document 9303 part 2 and have a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry.</u>	akkoord
<del>All other identity cards shall cease to be valid at their expiry or by ten years after [the date of application of the Regulation], whichever is earlier.</del>	
<b>CHAPTER III</b>	
<b>RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	
<i>Article 6</i>	
<i>Minimum information to be indicated</i>	
Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	
(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	
(b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;	
(c) document number;	
(d) name (surname and forename(s)) of the holder;	
(e) date of birth of the holder;	
(ea) <u>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, the date of the registration and the address of the holder at the time of issuing;</u>	Akkoord
<del>(eb) on documents certifying permanent residence issued in accordance with Article 19 of Directive 2004/38/EC, the date of issue;</del>	NL handhaaft voorbehoud. Op onze kaart staat plaats van afgifte en niet de autoriteit.
(f) <del>date of issue;</del>	
(g) <del>place of issuing authority</del>	
<b>CHAPTER IV</b>	
<b>RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT</b>	

NATIONALS OF A MEMBER STATE	
<i>Article 7</i>	
<i>Uniform format</i>	
(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 <b>and conditions for the taking of biometric identifiers</b> as established by the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.	Akkoord
(2) By derogation from paragraph 1, a card <del>shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively in data field [10] as referred to in the Annex of Council 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.</del>	Akkoord
(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 same requirements as set out in Article 4, 2nd subparagraph, of Council Regulation (EC) No 1030/2002 as last amended by Regulation (EU) 2017/1954	(4)
<i>Article 8</i>	
<i>Phasing out of existing residence cards</i>	
(1) <del>All other 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 the Regulation], whichever is earlier.</del>	Akkoord
(2) <del>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 ICAO document 9303 part 2 (seventh edition, 2015), or do not include a functional machine-readable zone (MRZ) which is readable by the systems deployed by all Member States compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by three years after [the date of application of this Regulation], whichever is earlier.</del>	Akkoord
(4) <del>Residence cards of family members of Union citizens who are not nationals of a Member State, which are not in a format laid down for residence permits in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008 of the European Parliament and of the Council on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [two years after the date of application of this Regulation], whichever is earlier.</del>	Akkoord
(5) <del>Residence cards of family members of Union citizens who are not nationals of a Member State, which are in a format laid down for residence permits for third country nationals in Regulation (EC) No 1030/2002 as amended by Regulation (EC) No 380/2008, but which are not in a format laid down in Regulation (EC) No 1030/2002 as amended by Regulation</del>	Akkoord

<del>(EU) 2017/1954 on [the date of entry into force of this Regulation], shall cease to be valid at their expiry or by [five years after the date of application of this Regulation], whichever is earlier.</del>	
<b>CHAPTER V</b>	
<b>COMMON PROVISIONS</b>	
<i>Article 9</i>	
<i>Contact pPoint of contact</i>	
(1)	Each Member State shall designate <b>at least one central authority. Where a Member State has designated more than one central authority, it shall designate which of them will be the as a contact point of contact</b> 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.
<i>Article 10</i>	
<i>Protection of personal data</i>	
(1)	Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification <del>or erasure and issuance of a new document.</del>
(2)	Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
(3)	Biometric data collected and stored in the storage medium of identity cards and residence documents shall only be used in accordance with Union and national law for verifying:
(a)	the authenticity of the identity card or residence document;
(b)	the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.
<i>Article 11</i>	
<i>Monitoring</i>	
By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.	
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 the 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 the monitoring.	

<i>Article 12</i>	
<i>Reporting and Evaluation</i>	
(1)	Four 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.
(2)	No sooner than six years after the date of application of this Regulation, 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.
(3)	Member States shall provide the Commission with the information necessary for the preparation of the reports
<b>Article 12a</b>	
<b>Further technical specification</b>	
(1)	In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Articles 2(a) and 2(c) 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(3) and their security, including prevention of unauthorised access and facilitated 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 12b(2).	
(2)	In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that 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, <del>respectively,</del> one body having responsibility for printing identity cards and one body for <u>printing</u> residence cards of family members of Union citizens. The same body may be designated by <u>one or more Member States</u> <del>by the Member State or two or more Member States.</del> <u>Member States</u> shall communicate the name of these bodies to the Commission and the other Member States. <del>Each</del> <u>Member States</u> shall be entitled to change <del>its</del> <u>their</u> designated bodies. <del>It</del> <u>They</u> shall inform the Commission and the other Member States accordingly.
	akkoord
<b>Article 12b</b>	
<b>Committee procedure</b>	
(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 delivers no 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.	
<i>Article 13</i>	
<i>Entry into force</i>	
This Regulation shall enter into force on the twentieth day following that of its publication in the <i>Official Journal of the European Union</i> .	
It shall apply from <del>12</del> 24 months after its entry into force.	
This Regulation shall be binding in its entirety and directly applicable in all Member States.	
Done at Strasbourg,	
<i>For the European Parliament</i>	
The President	

**Westerhuis, Arend-Jan**

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**Van:** [REDACTED]  
**Verzonden:** zondag 21 oktober 2018 23:07  
**Aan:** [REDACTED]  
[REDACTED] BD/DGM/DMB/TR&N'  
**Onderwerp:** Conceptinstructie RWG grenzen 22 oktober v0.2  
**Bijlagen:** Conceptinstructie RWG grenzen 22 oktober v0.2.docx

Hoi [REDACTED]

Op de valreep de instructie!

[REDACTED]



**INSTRUCTIE COREPER II nr X DATUM: 7 november 2018.**

<b>Agendapunt</b> <ul style="list-style-type: none"><li>• Biometrie op identiteitskaarten</li></ul>
<b>Rechtsbasis</b> <ul style="list-style-type: none"><li>• Artikel 21 van het Verdrag betreffende de werking van de Europese Unie</li></ul>
<b>Van Coreper gevraagde handeling</b> <ul style="list-style-type: none"><li>• Instemmen</li></ul>
<b>Besluitvormingsprocedure Raad</b> <ul style="list-style-type: none"><li>• Gekwalificeerde meerderheid</li></ul>
<b>Betrokkenheid EP</b> <ul style="list-style-type: none"><li>• Medebeslissing</li></ul>
<b>Fase Besluitvorming (bij normale wetgevingsprocedure)</b> <ul style="list-style-type: none"><li>• Doorgeleide naar Triloog</li></ul>
<b>Verklaringen</b> <ul style="list-style-type: none"><li>• N.v.t.</li></ul>
<b>Document</b> <ul style="list-style-type: none"><li>• COM(2018) 212</li></ul>

## Essentie NL positie

### Identiteitskaarten:

- Nederland is voorstander van het zo spoedig mogelijk versterken van de minimale eisen aan veiligheidskenmerken van identiteitskaarten.
- Nederland erkent het belang van de opname van vingerafdrukken voor het tegengaan van identiteitsfraude en ter bevordering van de interne veiligheid, maar is terughoudend uit proportionaliteitsoverwegingen. Daarbij moet een afweging plaatsvinden tussen mogelijke inbreuk op privacy van burgers (bij afname en opslag van vingerafdrukken op het document) in relatie tot het beoogde doel en de verwezenlijking daarvan. Het ontbreken van grenscontroles aan de binnengrenzen van het Schengengebied vanwege het vrije verkeer van personen en goederen en de tot op heden beperkte controles aan de buitengrenzen van vingerafdrukken uit paspoorten is daarbij relevant.
- Nederland stelt dat, gezien de ambitie om aan de grens op automatische gezicht herkenning over te gaan, ingezet moet worden op live-capture van de foto. Dit kan ter plaatse of via geautoriseerde fotografen. Foto's worden namelijk altijd gecontroleerd, in tegenstelling tot wat voorzien is met vingerafdrukken
- Nederland blijft vraagtekens plaatsen bij het gebruik van de rechtsgrondslag voor de verordening. Nederland gaat ervanuit dat de kans groot is dat er in Nederland privacy partijen zijn die juridische procedures tot en met het Hof van Justitie zullen willen voeren.

### Vreemdelingendocumenten:

- NL heeft positieve grondhouding t.a.v. het voorstel dat een set minimeisen aan veiligheidskenmerken op verblijfsdocumenten van EU-burgers en hun gezinsleden niet EU-leden wordt gesteld.

## Instructie

- Instemmen met de concepttekst.

### Opbrengen

- De stemverklaring. Deze geeft aan dat Nederland de maatregel van vingerafdrukken niet proportioneel acht maar mede gezien de andere maatregelen wel instemt.

### Bereiken

- -

### Vermijden

- Niet meer uitzonderingen voor uitfaseertermijn toestaan. Uitzonderingen maken de controle van documenten, bij bijvoorbeeld grensbewaking complexer en duurder. Mogelijk zullen diverse lidstaten meer coulance willen voor die zaken die zij nu nog niet conform ICAO of de verordening geregeld hebben.
- De registratie van sekse in de identiteiten is op verzoek van Nederland optioneel gemaakt in de verordening. Dit is conform het regeerakkoord. Eerder hebben lidstaten zich kritisch uitgelaten over deze toevoeging. Gezien de politieke wens in Nederland moet deze optie blijven.

## Terugvalpositie

- N.v.t.

## Krachtenveld

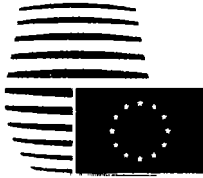
- LS steunen het voorstel om tot veiliger documenten te komen
- Diverse lidstaten zullen veel geld moeten besteden de gestelde deadlines te halen
- LS steunen de overstap op vingerafdrukken, met uitzondering van POL en TSJE

## Positie Nederlands parlement

- BNC-fiche is op 8 juni aan de Kamers gezonden.
- Diverse fracties zijn ontevreden over de verplichte vingerafdrukken en hebben via een Algemeen overleg en verlengd algemeen overleg geprobeerd het kabinet te verplichten tegen de verordening te laten stemmen.

## Achtergrond/Toelichting

- De verordening past in een bredere aanpak in Europa om misdaad en fraude te bestrijden.
- Het is de wens om niet langer zwakke schakels toe te staan in het Europese identiteitsstelsel, zoals eeuwig geldende documenten of documenten zonder foto.
- De verordening stelt ook vingerafdrukken verplicht, terwijl dit in Nederland controversieel ligt.
- Nederland voldoet reeds aan de andere verplichtingen
- Diverse lidstaten moeten grote hoeveelheden documenten vervangen
- IER heeft voorgesteld hun paspoort-kaart niet onder de verordening te laten vallen. De kaart in vorm en functie een identiteitskaart zoals die van andere lidstaten. De kaart kan gebruikt worden voor het uitoefenen van het recht op vrij verkeer. Nederland is dan ook van mening dat deze onder de verordening dient te vallen.



Council of the  
European Union

Brussels, 30 October 2018  
(OR. en)

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Interinstitutional File:  
2018/0104(COD)

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13462/18  
ADD 1

LIMITE

JAI 1042  
FRONT 357  
VISA 284  
FAUXDOC 96  
IA 330  
FREMP 180  
CODEC 1762

**NOTE**

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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  
- Mandate for negotiations with the European Parliament

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Delegations will find attached a compromise proposal with a view to granting the Presidency a mandate to start negotiations with the European Parliament.

Suggested modifications are indicated as follows:

- new text compared to the Commission proposal is in **bold**;
- new text compared to the previous version (12960/18) is in **bold underline**
- deleted text compared to the Commission proposal is in [...].

2018/0104 (COD)

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**

(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 Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right.<sup>3</sup> Article 45 of the Charter also provides for the 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 citizens of the Union 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) 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 the Directive<sup>4</sup>.
- (5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents<sup>5</sup>, and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.
- (6) 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 other residence documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.
- (6a) **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.**
- (6b) **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.**

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<sup>3</sup> 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).

<sup>4</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>5</sup> COM(2016) 790 final.



- (7) 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 Council,<sup>6</sup> 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 a better access to services.
- (8) 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.**
- (9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.
- (10) The specifications of the International Civil Aviation Organisation (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.
- (11) [...]

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<sup>6</sup> 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).

- (12) Introducing minimum security and format standards of identity cards should allow Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. **Moreover, Member States should exchange the information necessary to authenticate the storage medium and to access and verify the biometric data of the holder of these documents.** 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 interoperability 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.
- (12a) **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.**
- (13) The Regulation [...] respects the obligations set in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union<sup>7</sup>. Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged. **Member States could also explore solutions, for example mobile registration devices, to issue identity cards to persons incapable of visiting the authorities responsible for issuing identity cards.**
- (14) 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 EU mobile citizen's use of the right to 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 could issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.**
- (15) 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 Council Regulation (EC) No 1030/2002<sup>8</sup> which lays down a uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954<sup>9</sup>. In addition to [...] proving [...] the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.

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<sup>7</sup> OJ L 23, 26.11.2009.

<sup>8</sup> Council Regulation (EC) 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.

<sup>9</sup> OJ L 286 of 1.11.2017, p.9.

- (16) 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.**
- (17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a 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 European Union. However, for cards which do not have important security features, [...] **or are not machine readable**, a shorter period of [...] **five** years is necessary on security grounds.
- (18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>10</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. 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.**
- (19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.
- (19aa) **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 when the document is required to be produced by law. This is without prejudice to any other processing of these data in accordance with Union and national data protection legislation. This Regulation does not provide a legal basis for setting up or maintaining databases for storage of those data in Member States, which is a matter of national legislation that needs to comply with EU data protection legislation.**

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<sup>10</sup> OJ L 119, 4.5.2016, p. 1.

- (19a) In order to ensure that future security standards and technical specifications adopted pursuant 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 can duly be taken into account, where appropriate, for identity cards and 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 Council. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95. Where necessary, implementing acts may remain secret in order to prevent the risk of counterfeiting and falsifications.
- (20) Member States should apply this Regulation at the latest [...] 24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.
- (21) The Commission should report on the implementation of this Regulation after [...] **four** years after its date of application, including on the appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making<sup>11</sup> the Commission should 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 the 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.**
- (22) 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.
- (23) This Regulation respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.

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<sup>11</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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 **with a validity of more than twelve 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 as set out in letters (c), (d), (f) and (g) of the Annex of Council 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. The inclusion of 'sex' in the visual inspection zone shall be optional.**
- (2) 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 'identity card' in at least one other official language of the institutions of the Union.**
- (3) 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.
- (4) 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 [...]. **Member States shall exchange the information necessary to authenticate the storage medium and to access and verify the biometric data referred to in paragraph 3.**
- (5) **Children under the age of 12 years may** [...] be exempt from the requirement to give fingerprints.

[...]

**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 an identity card having a validity of twelve months or less.**

**Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints.**



- (5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.]
- (6) Member States may enter details and observations for national use as required in the light of their national provisions.
- (7) 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 not interfere with the storage medium referred to in paragraph 3.
- (8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
- (9) Where Member States add national 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.
- (10) Identity cards shall have a maximum period of validity of 10 years. Derogations may be provided for [...] **persons aged 70 and above. Identity cards issued to children under the age of 12 shall have a maximum period of validity of 5 years.**
-

#### *Article 4*

##### *Collection of biometric identifiers*

- (1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. **In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person for each application at least once during the issuance process.**
- (2) **The procedure for collecting biometric identifiers shall take into account the specific needs of children and shall be carried out in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in 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.

## 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 the 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 ICAO document 9303 part 2 (seventh edition, 2015) or 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 the Regulation*] which meet the minimum security standards set out in ICAO document 9303 part 2 and 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 ICAO document 9303 part 3 (seventh edition, 2015),**
  - (b) **or, 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, by [*the date of application of the Regulation*], the Commission 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 issued by Member States to citizens of the Union shall indicate at least the following:

- (a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;
- (b) the clear reference that the document is issued in accordance with Directive 2004/38/EC;
- (c) document number;
- (d) name (surname and forename(s)) of the holder;
- (e) date of birth of the holder;
- (ea) **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;**
- (f) [...]
- (g) [...] **issuing authority.**

## 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 **and conditions for the taking of biometric identifiers** as established by the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013].
- (2) By 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 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', [...] in data field [10] as referred to in the Annex of Council 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 same requirements as set out in Article 4, 2nd subparagraph, of Council 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 the 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 ICAO document 9303 part 2 (seventh edition, 2015) or do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by three years after *[the date of application of this Regulation]*, whichever is earlier.

## CHAPTER V

### COMMON PROVISIONS

#### *Article 9*

##### *[...] pPoint of contact*

- (1) Each Member State shall designate **at least one central authority**. **Where a Member State has designated more than one central authority, it shall designate which of them 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 and able to cooperate with the existing and relevant information and assistance services at Union level, such as Your Europe, SOLVIT, EURES, bodies foreseen under Article 4 of Directive 2014/54/EU, Enterprise Europe Network and the Points of Single Contact.

#### *Article 10*

##### *Protection of personal data*

- ~~(1) Without prejudice to the application of Regulation (EU) 2016/679, persons to whom an~~  
identity card or residence document is issued shall have the right to verify the personal data contained in the documents and, where appropriate, to ask for rectification [...] **and issuance of a new document.**
- (2) Information in machine-readable form shall only be included in an identity card or residence document in accordance with this Regulation or the national legislation of the issuing Member State.
- (3) Biometric data **shall only be** collected [...] **to be stored** in the storage medium of identity cards and residence documents **and** shall only be used in accordance with Union and national law for verifying:
  - (a) the authenticity of the identity card or residence document;
  - (b) the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.



## *Article 11*

### *Monitoring*

By 12 months after the entry into force at the latest, the Commission shall establish a detailed programme for monitoring the outputs, results and impacts of this Regulation.

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 the 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 the monitoring.

## *Article 12*

### *Reporting and Evaluation*

- (1) Four 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.
- (2) No sooner than six years after the date of application of this Regulation, 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.
- (3) Member States shall provide the Commission with the information necessary for the preparation of the reports.

## **Article 12a**

### **Further technical specification**

- (1) **In order to ensure, where appropriate, compliance of the identity cards and residence documents referred to in Articles 2(a) and 2(c) 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(3) and their security, including prevention of unauthorised access and facilitated 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 12b(2).

- (2) In accordance with the procedure referred to in Article 12b(2), it may be decided that the specifications referred to in this Article shall be secret and not be published. In that 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 the other Member States. Member States shall be entitled to change their 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 12b

### 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 delivers no 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 13*

*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 its entry into force.

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

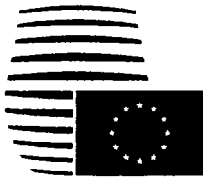
Done at Strasbourg,

*For the European Parliament*

The President

*For the Council*

The President



Council of the  
European Union

Brussels, 30 October 2018  
(OR. en)

13462/18

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Interinstitutional File:  
2018/0104(COD)

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LIMITE

JAI 1042  
FRONT 357  
VISA 284  
FAUXDOC 96  
IA 330  
FREMP 180  
CODEC 1762

**NOTE**

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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 - Mandate for negotiations with the European Parliament

---

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 movement<sup>1</sup>. The aim of the proposal is to improve 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 aim is achieved by introducing minimum standards for the information provided on these documents and for security features common to all Member States that issue them. 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.

---

<sup>1</sup> 8175/18.

2. The proposal was examined by the Working Party on Frontiers on 4 and 29 May, 26 June, 16 July, and 14 September, as well as by JHA Counsellors on 4 and 22 October 2018. At the last meeting a large majority of Member States welcomed the Presidency compromise proposal.
3. The Presidency strived to take into account concerns and suggestions expressed by Member States during discussions in preparatory bodies. As such, the Presidency compromise text of the Regulation aims at addressing the following issues:

a) security standards and specifications

The Presidency aimed to clarify the standards applicable to ID cards in order to ensure efficient application of the Regulation. That's why, in Art 3(1) and Art 3(5a), the compromise proposal provides further details regarding the security standards and specifications, making references to the relevant Union law.

b) entry into force and phase out of identity cards not fully meeting the requirements

Some Member States have raised significant concerns regarding the timing for implementation of the Regulation. Particularly, the need to replace millions of identity cards held by citizens within a short period of time was considered as close to impossible. In order to address this issue, the Presidency compromise proposal has extended the period of entry into application from 12 month to 24 months (Article 13).

In addition, Art 5 concerning the phase-out period of identity cards which do not meet the specified standards has been significantly amended:

- i. paragraph (2)(a) has extended from 2 years to 5 years, following the date of application, the phase-out period of cards which do not meet the minimum security standards or do not include a functional machine-readable zone (MRZ);
- ii. the new paragraph (2)(b) takes into account concerns regarding the nuisance caused to elderly citizens by the need to replace their ID cards as a result of the Regulation, and thus, now allows citizens aged 70 or more to continue using the ID cards which meet the minimum security standards until their expiry;

- iii. the new paragraph (3) addresses the issue where some Member States already issue cards that meet the minimum security standards but their machine-readable zone (MRZ) cannot be fully read by other Member States. Given the significant investment already made in issuing these cards and the fact that they meet the minimum security standards, the Presidency compromise allows for these cards to be phased-out within 10 years. However, this is under condition that the issuing Member State informs the other Member States about the rules necessary to read the cards and that no Member State notifies the Commission about its inability to read such cards;

The Presidency believes that these changes were necessary to ensure an effective application of the Regulation. The compromise text offers the right balance between the need to rapidly replace documents with the highest security risk and the objective capability of national authorities to prepare for implementation and ensure a smooth transition of citizens to new documents.

c) collection and storage of biometric identifies

---

The Presidency compromise text clarifies in the new recital 19aa that the Regulation does not provide a legal basis for setting up databases for storage of biometric identifies, which is a matter of national law that needs to comply with EU data protection legislation.

In addition, as the proposal provides for collection of fingerprints from children (children under the age of 12 may be exempt), it is important to ensure that this is done in accordance with the relevant international treaties and EU law. For this purpose, Art 4(2) has been amended, referring to the safeguards included in the Convention for the Protection of Human Rights and Fundamental Freedoms, the Charter of Fundamental Rights and the UN Convention on the Rights of the Child.

d) validity period of ID cards issued to elderly citizens and children

Following suggestions by a number of Member States, in Art 3(10), the Presidency specified that a derogation from the 10 year maximum period of validity of identity cards may be provided by Member States for persons aged 70 or above. While a few delegations requested the age limit to be lower (65), the Presidency believes that this would cause too big a security risk, given the growing life expectancy and changes in the reliability of biometric identifiers which are likely to occur also in the case of elderly.

In addition, the Presidency compromise proposal stipulates that the maximum period of validity of identity cards issued to children should be 5 years.

e) exchange of security certificates

The Presidency believes that it is important to ensure that authorities of all Member States can access the relevant information stored on ID cards for the purpose of identification of their holders. For this reason, a new provision in Art 3(4) introduces an obligation for Member States to exchange information necessary to authenticate the storage medium of the card and verify the biometric data.

f) establishing further technical specifications and the committee procedure

The Presidency compromise proposal includes new Articles 12a and 12b, which allow the Commission to adopt implementing acts, with the assistance of the Committee established by Art 6 of Regulation (EC) 1683/95, to ensure compliance of ID cards and residence documents with future minimum security standards.

4. Two delegations opposed the compulsory inclusion of fingerprints on ID cards, claiming that this measure is disproportionate. The Presidency finds that fingerprints are the most reliable way of establishing the identity of a person and their inclusion on ID cards is a proportionate measure in light of the objectives of the Regulation. The inclusion of biometric identifiers, and particularly the inclusion of fingerprints, will make the documents significantly more secure and will align the security of identity cards to most passports issued to EU citizens.



5. In a number of meetings of the preparatory bodies, Ireland raised the issue of the Irish passport cards. The Irish passport cards are classified by Ireland as a passport in a card format. They may only be issued to persons that already possess a valid passport for the reason of convenience. The card is valid for five years and allows bearers to travel within the EU, EEA and Switzerland. Ireland does not collect or store fingerprints for passport purposes nor does it have any plans to do so. Ireland also does not issue identity cards to its citizens, nor does it have existing or proposed legislation to introduce them.

If the Regulation were to be adopted as it stands, Ireland is concerned that:

- a. it would classify passport cards as identity cards, which is politically problematic for Ireland and furthermore it would compel Ireland to introduce fingerprinting, whereas EU Council Regulation 2252/2004 on passport security standards is not binding on Ireland;
- b. it could also create confusion at EU borders due to a lack of clarity regarding the status of passport cards.

---

As a result, Ireland requested to specifically recognise in the Regulation passport cards as a passport and thus exclude them from the scope.

The Presidency is fully aware of the concerns of Ireland. However, as noted in the impact assessment<sup>2</sup>, Irish passport cards are issued in the ID card format (ID-1) and grant their bearers the right to exit and to enter another Member State similar to identity cards issued by other Member States. This means that despite their denomination, passport cards should fall within the scope of the Regulation. In line with the objections raised by a few Member States regarding the Irish request, the Presidency believes that providing an exception for passport cards would create a security loophole, which runs contrary to the objectives of the Regulation. The recent amendment of the Schengen Borders Code<sup>3</sup> makes it obligatory to systematically check all persons and verify their travel documents, regardless of the holder's nationality. The effectiveness of these checks, as well as interoperability of EU information systems, depends on documents that meet uniform, minimum security standards and that can be used to establish a person's identity beyond doubt.

6. *In light of the above, the Presidency invites COREPER to agree on the compromise proposal set out in Addendum (13462/18 ADD 1), with a view to granting the Presidency a mandate to start negotiations with the European Parliament.*

---

<sup>2</sup> 8175/18 ADD1.

<sup>3</sup> Regulation (EU) 2017/458 of the European Parliament and of the Council of 15 March 2017 amending Regulation (EU) 2016/399 as regards the reinforcement of checks against relevant databases at external borders.

10.2e

**Van:** 10.2e  
**Verzonden:** maandag 12 november 2018 13:14  
**Aan:** 10.2e  
**CC:** 10.2e  
**Onderwerp:** RE: Stemverklaring  
**Bijlagen:** Explanation of Vote.docx

Dit is hem in het Engels.

---

**Van:** 10.2e  
**Verzonden:** maandag 12 november 2018 12:37  
**Aan:** 10.2e 10.2e  
**CC:** 10.2e  
**Onderwerp:** RE: Stemverklaring

Dank 10.2e, eens met de tekst.  
Groet,  
10.2e

---

PS Voor de stemverklaring hebben we een ENG talige tekst nodig.

---

**From:** 10.2e <minbzk.nl>  
**Sent:** maandag 12 november 2018 11:58  
**To:** 10.2e <@minbzk.nl>; 10.2e <@minbuza.nl>  
**Cc:** 10.2e <@minbuza.nl>  
**Subject:** RE: Stemverklaring

Prima. Duidelijk voor de andere lidstaten hoe NL erin staat en ook duidelijk voor de TK hoe wij ons in EUR opstellen.  
Bedankt voor al het werk dat hieraan vooraf is gegaan!

Gr 10.2e

---

**Van:** 10.2e  
**Verzonden:** maandag 12 november 2018 10:55  
**Aan:** 10.2e <@minbuza.nl>  
**cc:** 10.2e <@minbzk.nl>; 10.2e <@minbuza.nl>  
**Onderwerp:** Stemverklaring

Hoi 10.2e

In de bijlage de stemverklaring. Hij is in het Nederlands.

10.2e

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**Datum**  
12 november 2018

NL declaration regarding the proportionality of the  
mandatory inclusion of fingerprints on ID-documents

The Netherlands acknowledges the advantages of using fingerprints in the fight against identity fraud and the improvement of internal security.

However, as pointed out continuously, due to the absence of internal border controls and limited usability of the identity card for travel outside the Schengen area the Netherlands remains to have concerns regarding the proportionality of this measure.

At the same time, the Netherlands acknowledges the importance of other aspects of this regulation. This is a big step forward in terms of document security and therefor supports the proposed negotiation mandate.

## **Verslag bijeenkomst Juridische dienst van de Raad (JDR), 12 juni 2018**

Op verzoek NL vond bijeenkomst plaats met JDR n.a.v. NL vragen over rechtsgrondslag. Doelstelling van het gesprek was om JDR te vragen naar hun appreciatie van de door Europese Commissie (Commissie) gekozen rechtsgrondslag met het oog op de brief aan de Eerste Kamer (EK). Dit in aanvulling op een eerdere mondelinge toelichting van de JDR op een vraag van NL in de RWG Grenzen.

### Essentie

JDR onderschrijft de door CIE gekozen rechtsgrondslag volledig. JDR geeft ook aan overtuigd te zijn dat de gekozen rechtsgrondslag geaccepteerd zou worden door het Hof, mocht de Verordening tot een dergelijke procedure leiden. Een van de hoofdargumenten van de JDR is dat het voorstel een logische consequentie is van de Richtlijn vrij verkeer en moet worden gezien als een implementatie daarvan. Om die reden is het juridisch zuiver dat de rechtsgrondslag van de Richtlijn vrij verkeer (2004/38/EU) wordt aangehouden. Dat is artikel 21 (2) VWEU. Een tweede hoofdargument is dat artikel 21 (2) VWEU prevaleert boven artikel 77(3) VWEU aangezien het laatstgenoemde artikel een restbepaling is en niet een *lex specialis*. Andere argumenten die de JDR aanvoert ter ondersteuning van het oordeel van de Commissie zijn de wetshistorie van artikel 77(3) VWEU in relatie tot de variabele geometrie, het ontbreken van precedents op basis van 77(3) VWEU en het bestaan van precedents, waarin implementerende wetgeving de rechtsgrondslag volgt van de onderliggende wetgeving.

#### **1. Gevolg Richtlijn vrij verkeer**

JDR herhaalt wat zij eerder mondeling in RWG Grenzen toelichtte. In hun optiek is dit voorstel een logisch gevolg van de Richtlijn 2004/38. Hierbij baseren zij zich oa. op artikel 2 van de Verordening, dat herhaaldelijk naar deze Richtlijn verwijst. JDR benadrukt hierbij nogmaals het tweevoudige doel van de verordening, en het gelijke gewicht en het verband van beide doelen: enerzijds het bestrijden van fraude bij de uitoefening van het recht op vrij verkeer, anderzijds het gemakkelijker maken van het dagelijks leven van de persoon die hier gebruik van maakt. Het gaat dus niet primair over grenscontroles, waar titel V en art. 77(3) betrekking op hebben, maar primair over het faciliteren van het recht op vrij verkeer binnen de EU, waaronder het wegnemen van barrières m.b.t. het daadwerkelijke verblijf in een andere lidstaat. Dit maakt art. 21(2) des te meer relevant.

#### **2. Geen *lex-specialis*, maar restbepaling**

De JDR geeft aan dat artikel 77(3) VWEU moet worden gezien als een restbepaling en niet als een *lex specialis*. Dit volgt uit de bewoordingen "tenzij de verdragen in de daartoe vereiste bevoegdheden voorzien". Artikel 77 (1 en 2) VWEU zijn volgens de JDR niet geschikt, aangezien deze bepalingen zijn gericht op de buitengrenzen. Anders dan het voorstel voor biometrische gegevens voor paspoorten, dat op de voorloper van 77(2) VWEU werd gebaseerd en primair is gericht op het faciliteren van de buitengrenspassing, ligt bij het huidige voorstel de nadruk op het faciliteren van het verblijf in een lidstaat en het reizen tussen de lidstaten (o.a. overwegingen 7,8,9 en 12). Ook in het geval van het voorstel voor biometrische gegevens is 77(3) uitgelegd als restbepaling en is dus gekozen voor 77(2) VWEU. Het artikel 21(2) VWEU biedt in de ogen van de JDR echter wel een alternatief voor artikel 77(3) VWEU.

#### **3. *Wetshistorie – variabele geometrie***

Bij de inwerkingtreding van het Verdrag van Lissabon was er de politieke wens om te voorkomen dat Denemarken referenda moest houden, voordat zij konden toetreden tot het Verdrag van Lissabon.

Denemarken had nationaal de verplichting referenda te organiseren voor elke bevoegdheidsoverdracht aan de EU. Om deze reden is ervoor gekozen om bepaalde onderwerpen onder te brengen onder 77(3) VWEU, dat niet (per definitie) van toepassing is op Denemarken. Het artikel is ook niet van toepassing op het Verenigd Koninkrijk en Ierland. Om te voorkomen dat deze drie Lidstaten op voorhand worden uitgesloten van deelname aan deze Verordening, dient artikel 21 (2) VWEU te worden gekozen en niet artikel 77(3) VWEU.

In het verlengde van het bovenstaande, geeft JDR aan dat artikel 77(3) VWEU daarnaast is bedoeld om het Europeaniseren van paspoorten en ID-kaarten te faciliteren. Het gaat hier, volgens de JDR, echter om het in het leven roepen en het uiterlijk van dergelijke documenten, zoals de kleur ervan. Volgens JDR zou er dus slechts een beroep kunnen worden gedaan op deze bepaling, indien er een "Europese verblijfskaart" of een Europese ID-kaart in het leven zou worden geroepen. Er is niet voor niets gekozen voor unanimititeit met betrekking tot deze bepaling. M.a.w.: beveiligingskenmerken om fraude te voorkomen met reisdocumenten die niet een juridische basis hebben in Unierecht zelf (zoals ID-kaarten, die LS zelf al dan niet kunnen besluiten te hebben), vallen niet onder 77(3) VWEU. Maar als LS die besluiten te gebruiken (zoals NL heeft besloten nationale ID-kaarten te gebruiken), zijn er wel EU-regels om dat gebruik te reguleren omdat hiermee vrij verkeer wordt bewerkstelligd. Dat is dus het domein van 21(2) VWEU.

#### *4. Overige argumenten*

JDR benadrukt dat er geen precedents zijn, waarbij artikel 77 (3) VWEU is gebruikt als grondslag voor de uitwerking van het vrij verkeer. Wel wijst de JDR op precedents waarin voorstellen ter uitvoering van bestaande regelgeving steeds de rechtsgrondslag van de bestaande regelgeving volgt. In dit kader noemt de JDR de Richtlijn 2014/67 ter uitvoering van de Detacheringsrichtlijn en Verordening 656/2014 die voortbouwt op de EGKW VO.



10.2.e

**Van:** 10.2.e  
**Verzonden:** dinsdag 4 december 2018 11:01  
**Aan:** 10.2.e  
**Onderwerp:** RE: LIBE vote

11.1

**Van:** 10.2.e  
**Verzonden:** dinsdag 4 december 2018 10:52  
**Aan:** 10.2.e  
**Onderwerp:** FW: LIBE vote

Ti

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**Van:** 10.2.e  
**Datum:** dinsdag 04 dec. 2018 10:49 AM  
**Aan:** 10.2.e  
**Onderwerp:** Re: LIBE vote

Dear 10.2.e

Thanks. Yes as it is now in the Deprez report voted yesterday the inclusion of fingerprint is optional.

Member States shall include a facial image and may include fingerprints.

Best regards,

10.2.e  
Parliamentary Assistant to  
Gérard Deprez MEP ALDE  
European Parliament  
10.2e  
10.2e

Le 4 déc. 2018 à 10:24, 10.2e <10.2.e@minbuza.nl> a écrit :

Dear 10.2.e

First of all, congratulations on the vote yesterday! Do I understand it correctly that the fingerprints are optional?

Thanks in advance.

Best,

10.2.e

---

From: 10.2.e @minbuza.nl>  
Sent: 19 September 2018 12:17  
To: 10.2.e 10.2.e @europarl.europa.eu>  
Subject: Request for meeting with Dutch attaché

Dear 10.2.e

On behalf of our Justice and Home affairs attaché 10.2.e I would to request a meeting with you to discuss the ongoing negotiations on the proposal 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.

Would any time this week or the beginning of next week suit you?

Kind regards,

10.2.e

10.2.e | Second Secretary  
Relations with the European Parliament

.....  
Permanent Representation of the Kingdom of the Netherlands to the EU  
Kortenberglaan 4-10 | 1040 Brussel

.....  
10.2e  
10.2.e @minbuza.nl

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10.2e

**Van:** 10.2e  
**Verzonden:** dinsdag 4 december 2018 10:08  
**Aan:** 10.2e  
**Onderwerp:** RE: VISA en ID-docs

Hoi 10.2e

Dank voor de update.

Zie ik nu dat ze voorstellen om vingerafdrukken optioneel te maken?

Civil Liberties Committee MEPs propose tackling this issue by:

- Making a facial image stored on a chip in the card mandatory for citizens' ID cards; in addition, member states could include two fingerprints on the chip; strong safeguards would apply to the collection and use of this data;

10.2e

**Van:** 10.2e  
**Verzonden:** dinsdag 4 december 2018 09:45  
**Aan:** 10.2e

**Onderwerp:** EP: VISA en ID-docs

Beste collega's,

Gisteren heeft LIBE gestemd over de visacode, het INI-rapport humanitaire visa en het rapport over het CIE voorstel ter versterking ID-docs en verblijfsdocumenten.

De rapporten zijn alle drie aangenomen, uitgebreider verslag volgt.

Groet,

10.2e

- Hum visa: <http://www.europarl.europa.eu/news/en/press-room/20181203IPR20713/humanitarian-visas-would-reduce-refugees-death-toll>  
Aangenomen met 37 voor, 10 tegen 3 abstentions
- Visumcode: <http://www.europarl.europa.eu/news/en/press-room/20181203IPR20711/new-eu-short-stay-visas-more-advantages-for-legitimate-travellers>  
Aangenomen met 27 voor, 15 tegen en 4 abstentions
- ID-kaarten: <http://www.europarl.europa.eu/news/en/press-room/20181203IPR20710/better-id-card-security-to-curb-document-fraud>  
Aangenomen met 32 voor, 7 tegen en 3 abstentions

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met risico's verbonden aan het elektronisch verzenden van berichten.

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10.2e

**Van:** 10.2e @minbuza.nl>  
**Verzonden:** dinsdag 18 december 2018 14:59  
**Aan:** 10.2e  
**Onderwerp:** FW: Request for comments - Secure ID

**Opvolgingsvlag:** Opvolgen  
**Vlagstatus:** Met vlag

Ha 10.2e, zie hieronder verzoek van vz om schriftelijk commentaar. Lukt het om op onze belangrijkste punten wat op papier te zetten?

Ik kom nog met een kort verslagje van gisteren. Dat stelde overigens niet veel voor. Enige Opvallende was dat dui tegen een optioneel systeem voor vingerafdrukken is.

Groet, 10.2e

Verzonden met BlackBerry Work  
(www.blackberry.com)

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**Van:** 10.2e 10.2e  
**Datum:** dinsdag 18 dec. 2018 8:01 AM  
**Onderwerp:** Request for comments - Secure ID

Message sent on behalf of the Presidency

Dear all,

With reference to the JHA Counsellors meeting yesterday, 17 December 2018, delegations are kindly requested to send comments to the four-column table containing the proposal for the Regulation on strengthening the security of ID cards and of residence documents (WK 15448/2018) by Thursday, 20 December 2018, COB. The short deadline is due to a drafting session to be held on Friday morning.

We kindly ask you to focus your comments particularly on the following aspects:

- inclusion of fingerprints on ID cards (compulsory vs. voluntary inclusion and inclusions of patterns vs. full image of fingerprints) (line 79)
- liabilities and penalties (lines 167-173)
- harmonisation of colour and inclusion of EU flag on ID cards and residence documents of EU citizens (lines 75 and 78, 119, 128)
- phasing-out of ID cards (line 109) and date of application (line 206)
- validity of ID cards (line 98)
- recognition of residence cards as travel documents (line 133)
- validity of ID cards issued to minors (lines 99-100)

Contributions should be sent to the Presidency 10.2e 10.2e and 10.2e 10.2e, the upcoming Romanian Presidency 10.2e @rpro.eu to the Commission 10.2e 10.2e

Regards,

10.2e

Assistant Horizontal Coordination



**Council of the European Union**

General Secretariat

Directorate-General JAI

Directorate Home Affairs

JL-20-50-MN-52

Rue de la Loi/Wetstraat 175 - 1048 Bruxelles/Brussel - Belgique/België

Direct tel: 10.2e

10.2.e @consilium.europa.eu | [www.consilium.europa.eu](http://www.consilium.europa.eu)

*Disclaimer: The views expressed are solely those of the writer and may not be regarded as stating an official position of the Council of the EU.*

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## 10.2e

**Van:** 10.2.e  
**Verzonden:** vrijdag 21 december 2018 10:06  
**Aan:** 10.2.e  
**CC:** 10.2.e  
**Onderwerp:** input draftsessie Verordening biometrie op identiteitskaarten

Hoi 10.2.e

Excuus, iets vertraagd:

- **Inclusion of fingerprints on ID cards (compulsory vs. voluntary inclusion and inclusions of patterns vs. full image of fingerprints) (line 79)**
  - Nederland vindt dat lidstaten zelf moeten besluiten over vingerafdrukken op identiteitskaarten
  - Vanwege interoperabiliteitsoverwegingen is het beter een full-image op te slaan. Tenzij de EU van plan is een eigen open standaard te ontwikkelen.
- **liabilities and penalties (lines 167-173)**
  - 171: Is erg vaag geformuleerd.
  - 172: Het is onduidelijk welke logs bedoeld worden. Zijn dit de logs van het aanmaken van documenten of van grenspassage? Ook blijkt niet uit deze passage of uit de beschrijving van de bedoelde organisatie in de AVG welk doel het delen van deze logs moet hebben. Juist gezien de kern van de AVG lijkt datadeling van deze orde een zeer onwenselijke stap.
  - 173: aansprakelijkheidsmaatregelen volgen al uit de AVG, hoeven hier niet opnieuw benoemd.
- **harmonisation of colour and inclusion of EU flag on ID cards and residence documents of EU citizens (lines 75 and 78, 119, 128)**

Het is niet ondenkbaar dat een duidelijk kenmerk gecreëerd wordt waaraan kaarten die in de EU geïssued worden te herkennen zijn. Deze voorstellen gaan te ver. Bovendien kan het niet voldoen aan designwensen van de EU geen reden kan zijn voor eerder uitsluiten.
- **phasing-out of ID cards (line 109) and date of application (line 206)**
  - 109:Als vingerafdrukken optioneel worden én de designwensen uit de EU vervallen (of geen reden voor uitsluiten zijn) voldoet de Nederlandse kaart nu reeds aan de verordening. Dan is Nederland geen tegenstander van uitsluiten in acht jaar, zoals het EP voorstelt.
  - 206: een inwerkingtredingstermijn van 24 maanden is nodig om de paspoortwet te wijzigen
- **validity of ID cards (line 98)**

Een geldigheid van tien jaar en de grote stappen die gezet worden op digitalisering brengt een groot risico met zich mee. Juist nu de verordening inzet op het faciliteren van automatische grenscontrole zou gedacht moeten worden over het inkorten van deze tien jaar. Tien jaar is een eeuwigheid in termen van digitale veiligheid. Tien jaar geleden leefden we in een andere wereld als het op digitale veiligheid aankomt.
- **recognition of residence cards as travel documents (line 133)**

Kunnen niet akkoord gaan. JenV wil de paspoort vereiste behouden.
- **validity of ID cards issued to minors (lines 99-100)**

Bij deze passage dient goed nagedacht te worden over de diverse gevallen waarin kinderen terecht kunnen komen. Als een kind sinds geboorte een ID-kaart heeft die 5 jaar geldig is, zal het kind als tienjarige een nieuwe moeten aanvragen die dan maximaal tweeënhalve jaar geldig is. Dit levert nodeloze lastenverzwaring op. Beter is het deze tijden op elkaar aan te laten sluiten, of toe te staan dat kaarten natuurlijk vervallen.

10.2e

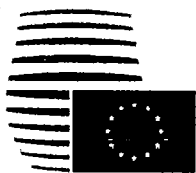
**Van:** 10.2e  
**Verzonden:** donderdag 17 januari 2019 20:12  
**Aan:** 10.2e  
**CC:** 10.2e  
**Onderwerp:** Instructie voor technisch triloog 18-01-19  
**Bijlagen:** Instructie technisch triloog I.docx

Ho 10.2e,

Zie de instructie in de bijlage. De voorstellen gaan op diverse punten veel te ver, ze grijpen bij diverse organisaties diep in op uitvoering en hebben potentieel enorme kostenposten. Zodoende zie ik best wat red-lines ontstaan. Mocht je vragen hebben kun je me morgen de hele dag bellen.

10.2e

.....  
**Afd. Identiteit**  
**DG Overheids Organisatie**  
**Ministerie van Binnenlandse Zaken en Koninkrijksrelaties**  
Turfmarkt 147 | 2511 DP | Den Haag | Toren Zuid, 18e etage  
Postbus 20011 | 2500 EA | Den Haag  
.....



**Council of the European Union**  
**General Secretariat**

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

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**Brussels, 14 January 2019 WK**

**454/2019 INIT LIMITE**

**JAI FRONT**  
**VISA**  
**FAUXDOC**  
**CODEC IA**  
**FREMP**

**WORKING PAPER**

*This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.*

**WORKING DOCUMENT**

From:	Presidency
To:	JHA Counsellors (Visa, Frontiers, Schengen)
Subject:	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

---

With a view to the meeting of JHA Counsellors on 18 January, delegations will find attached a four- column table on the proposal for strengthening the security of identity cards and residence documents. Fields marked in green have been preliminarily agreed during the technical meetings with the EP on 8 and 10 January 2019, pending a confirmation following internal consultations by both institutions.

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WK 454/2019 INIT

**LIMITE**

**EN**

**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**

<b>Line</b>	<b>Commission proposal (8175/18)</b>	<b>EP amendments</b>	<b>Council negotiating mandate (14360/18)</b>	<b>Compromise text proposals</b>
1.	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 (Text with EEA relevance)			
2.	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	
3.	Having regard to the Treaty on the Functioning of the European Union, and in particular Article	Having regard to the Treaty on the Functioning of the European Union, and in particular Article	Having regard to the Treaty on the Functioning of the European Union, and in particular Article	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	21(2) thereof,	21(2) thereof,	21(2) thereof,	
4.	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	Having regard to the proposal from the European Commission,	
5.	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	After transmission of the draft legislative act to the national parliaments,	
6.	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,	Having regard to the opinion of the European Economic and Social Committee <sup>2</sup> ,	Having regard to the opinion of the European Economic and Social Committee <sup>3</sup> ,	
7.	Having regard to the opinion of the Committee of the Regions <sup>4</sup> ,	Having regard to the opinion of the Committee of the Regions <sup>5</sup> ,	Having regard to the opinion of the Committee of the Regions <sup>6</sup> ,	
8.	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	Acting in accordance with the ordinary legislative procedure,	
9.	Whereas:	Whereas:	Whereas:	

- 
- 1 OJ C , , p . .  
2 OJ C , , p . .  
3 OJ C , , p . .  
4 OJ C , , p . .  
5 OJ C , , p . .  
6 OJ C , , p . .

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
10.	(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.	(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.	(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.	
11.	(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. <sup>1</sup> Article 45 of the Charter	(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. <sup>2</sup> Article 45 of the Charter	(2) Citizenship of the Union confers on every citizen of the Union the right to free movement subject to certain limitations and conditions. Directive 2004/38/EC of the European Parliament and of the Council gives effect to that right. <sup>3</sup> Article 45 of the Charter	

<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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).

Title	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	<p>also provides for the freedom of movement and residence.</p> <p>Freedom of movement entails the right to exit and enter Member States with a valid identity card or passport.</p>	<p>also provides for the freedom of movement and residence.</p> <p>Freedom of movement entails the right to exit and enter Member States with a valid identity card or passport.</p>	<p>also provides for the freedom of movement and residence.</p> <p>Freedom of movement entails the right to exit and enter Member States with a valid identity card or passport.</p>	
12.	<p>(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 citizens of the Union 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</p>	<p>(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 citizens of the Union 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</p>	<p>(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 citizens of the Union 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</p>	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	residence cards.	residence cards.	residence cards.	
13.	(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 the Directive <sup>1</sup> .	(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 the Directive <sup>2</sup> .	(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 the Directive <sup>3</sup> .	
14.		(4 a) <i>Considerable differences exist between the security levels of national identity cards issued by Member States and residence permits for EU nationals residing in another</i>		

<sup>1</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>2</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

<sup>3</sup> COM (2013) 837 final of 25.11.2013, p. 7 and COM (2009) 313 final of 2.7.2009, p. 15.

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>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 to free movement. European Document Fraud Risk Analysis Network Statistics show that fraudulent European ID Cards have increased over time.</i>		
15.		<i>(4 b) In its Communication on "Enhancing security in a world of mobility: improved information exchange in the fight against terrorism and stronger external borders" (COM(2016)602), the Commission stressed the crucial importance of secure travel and identity documents wherever it is necessary to establish beyond doubt a person's identity and announced that it would be presenting an action plan to tackle the phenomenon of travel document fraud. An</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>improved approach will rely on robust systems to prevent abuses and the threats to internal security arising from failings in document security.</i>		
16.		<i>(4 c) Three-quarters of fraudulent documents detected at the external borders and within the EU imitate identity documents issued by Member States and Schengen-associated countries. National identity cards with a lower degree of security are the most frequently detected fake. According to Frontex, 40682 fraudulent European ID Cards and 13512 fraudulent EU residence permits (all types) were detected and reported within the European Document Fraud Risk Analysis Network (EDF-RAN) between 2013-April 2018. These figures include detections at the external EU borders as well as those on the secondary intra-EU/Schengen movements.</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
17.		<i>(4 d) In order to deter the use of 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.</i>		
18.	(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents <sup>1</sup> , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents <sup>2</sup> , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	(5) The 2016 Action Plan on document security of December addressed the risk from fraudulent identity cards and residence documents <sup>3</sup> , and the 2017 Citizenship report committed to analysing policy options to improve the security of identity cards and residence documents.	
19.		<i>(5 a) The 2016 Action Plan on document security of</i>		

- 
- 1 COM(2016) 790 final.  
2 COM(2016) 790 final.  
3 COM(2016) 790 final.



Line

Commission proposal (8175/18)

EP amendments

Council negotiating mandate (14360/18)

Compromise text proposals

20.		<p><i>(5 b) This Regulation calls on the Member States, with the support of the Commission, to further pursue their work on the best ways of making source documents less vulnerable to fraud, in particular on the basis of the Europol manual on the detection of false source documents.</i></p>		
		<p><i>December also noted that obtaining authentic documents on the basis of false 'breeder' documents (birth, marriage and death certificates) are in marked increase and remains one of the biggest threats in the European Union, as it is very difficult to detect.</i></p>		
21.	<p><i>(6) 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 other residence</i></p>	<p><i>(6) 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 other residence</i></p>	<p><i>(6) 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 other residence</i></p>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.	documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.	documents under national law outside the scope of Union law, for example residence cards delivered to all residents on the territory whatever their nationality.	
22.			(6a) <i>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.</i>	
23.			(6b) <i>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.</i>	
24.			6(c) <i>Travel documents</i>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>compliant with International Civil Aviation Organisation (ICAO) Document 9303, part 5 (seventh edition), which do not serve identification purposes in the issuing Member States, should not be considered as falling within the scope of this Regulation.</i>	
25.	(7) 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 Council, <sup>1</sup> which provides for Union-wide mutual recognition	(7) 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 Council, <sup>2</sup> which provides for Union-wide mutual recognition	(7) 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 Council, <sup>3</sup> which provides for Union-wide mutual recognition	

<sup>1</sup> 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).

<sup>2</sup> 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).

<sup>3</sup> 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).



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	<p>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 a better access to services.</p>	<p>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 a better access to services.</p>	<p>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 a better access to services.</p>	
26.	<p>(8) 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.</p>	<p>(8) 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.</p>	<p>(8) 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. <i>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</i></p>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>languages. However, no new designations other than 'identity card' should be introduced in the future.</i>	
27.	(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.	(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.	(9) 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 is an important step to render their use in the Union more secure. The inclusion of such biometric identifiers should allow citizens to fully benefit from their free movement rights.	
28.		(9 a) <i>The storage of a facial image and two fingerprints (here forth referred to as "biometric data") on identity documents, as already provided for biometric passport and the residence permit for third</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<p>country nationals, is an appropriate combination of reliable identification and authentication with a reduced risk of fraud, to adequately address the objective of strengthening the security of identity documents.</p> <p>Additionally, the European Court of Justice ruled in its judgment 'Schwarz' of 2013 relating to biometric passports that 'the combination of two operations designed to identify persons may not a priori be regarded as giving rise in itself to a greater threat to the rights recognised by Articles 7 and 8 of the Charter than if each of those two operations were to be considered in isolation'.</p>		
29.		<p>(9 b) This Regulation provides for the collection of biometric identifiers only by qualified and duly authorized staff of the national authorities responsible for issuing identity cards or residence permit.</p>		



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
30.		<p>(9 c) <i>This regulation should not establish a legal basis for the creation of a database at national level as this remains an exclusive competence of the Member States. Neither does it establish a legal basis for the creation of a centralized database at Union level. The biometric data collected for the purpose of this Regulation should only be used by qualified and duly authorized staff of the competent national authorities and EU agencies and for verifying the authenticity of the document and the identity of the holder by means of directly available comparable features when the identity card or residence document is required to be produced by law.</i></p>		
31.		<p>(9 d) <i>Biometric identifiers outside the storage medium, should be stored in a highly secure manner only for the time required to produce the national identity card or</i></p>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>residence permit and in no case for longer than one month from the date of collection and should be immediately erased once stored in the storage medium.</i>		
32.	(10) The specifications of the International Civil Aviation Organisation (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.	(10) The specifications of the International Civil Aviation Organisation (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 <i>by the Commission when drawing up additional technical specifications.</i>	(10) The specifications of the International Civil Aviation Organisation (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.	
33.		<i>(10 a) Where a Member State includes the category of 'gender' on a document it should be with the options of , , or according to ICAO guidelines.</i>		
34.		<i>(10 b) In order to ensure</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>uniform conditions for the implementation of the additional technical specifications, 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 the Council.<sup>1</sup></i>		
35.	(11) The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in	(11) The procedure for taking fingerprints and a facial image should <i>pursue a strictly limited objective</i> , take into account the specific needs of children <i>and vulnerable persons</i> , <i>should be undertaken in a child sensitive and in a gender sensitive manner, be implemented by qualified staff, under the regular observation of the</i>	(11) <del>The procedure for taking fingerprints and a facial image should take into account the specific needs of children and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental</del>	

<sup>1</sup> Regulation (EU) No 182/2011 of the European Parliament and the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p.13)

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	the United Nations Convention on the Rights of the Child.	<i>Commission as well as of a supervisory authority and be applied in accordance with the safeguards laid down in Article 24 the Charter of Fundamental Rights of the European Union, in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child. Qualified staff responsible for the collection of biometric identifiers should be trained accordingly.</i>	<del>Freedoms and in the United Nations Convention on the Rights of the Child.</del>	
36.		<i>(11 a) It is important to ensure the dignity of the person from whom biometric information is collected throughout the collection procedure. Therefore, gender-specificities, the specific needs of children and of vulnerable persons should be taken into account.</i>		
37.	(12) Introducing minimum security and format standards of identity cards should allow	(12) Introducing minimum security and format standards of identity cards should allow	(12) Introducing minimum security and format standards of identity cards should allow	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	<p>Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. While the possibility to provide for additional national features is maintained, it should be ensured that those common security features or negatively affect the cross-border interoperability 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.</p>	<p>Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. <i>This Regulation provides that identity cards issued by the Member States are mutually recognized as identity and travel documents.</i> 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 interoperability 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.</p>	<p>Member States to rely on the authenticity of those documents when EU citizens exercise their free movement rights. <i>Moreover, Member States should exchange the information necessary to authenticate the storage medium and to access and verify the biometric data of the holder of these documents.</i></p> <p>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 interoperability-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.</p>	
38.			<p>(12a) <i>Member States should take all necessary steps to ensure that biometric data matches the person to whom an</i></p>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>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.</i>	
39.		<i>(12 a) The use of holograms and/or watermarks allows for preventing the forgery of the document and ensures the verification of the authenticity of an identity card or a residence document, they can therefore, contribute to data minimisation;</i>		
40.		<i>(12 a) In order to promote recognition between Member States of the security features of national identity cards, Member States should exchange among themselves such digital certificates, as they are required to authenticate, verify and read the information contained on the secure storage medium.</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>Formats used for the secure storage medium should be interoperable, including with automated border crossing points.</i>		
41.		<i>(12 b) Mutual recognition of identity documents is an essential element for the mobility of Union citizens. In the event of loss, theft or renewal, the provisional documents issued by the Member States are not recognized and therefore no longer allow this mobility. Therefore, Member States should, in cooperation with the Commission, work towards better recognition of these documents.</i>		
42.	(13) The Regulation shall respect the obligations set in the United Nations Convention on the Rights of Persons with	(13) <i>When implementing this Regulation, Member States should in particular respect the obligations set in Articles 25 and 26 of the Charter of</i>	(13) The Regulation <del>shall</del> respects the obligations set in the United Nations Convention on the Rights of Persons with	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	Disabilities ratified by all Member States and the Union <sup>1</sup> . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.	<i>Fundamental Rights of the European Union</i> and in the United Nations Convention on the Rights of Persons with Disabilities ratified by all Member States and the Union <sup>2</sup> . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged.	Disabilities ratified by all Member States and the Union <sup>3</sup> . Therefore, the integration of additional features that render identity cards more accessible and user-friendly to people with disabilities, such as visually impaired persons, should be encouraged. <i>Member States could also explore solutions, for example mobile registration devices, to issue identity cards to persons incapable of visiting the authorities responsible for issuing identity cards.</i>	
43.	(14) 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	(14) 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	(14) 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	

<sup>1</sup> OJ L 23, 26.11.2009  
<sup>2</sup> OJ L 23, 26.11.2009  
<sup>3</sup> OJ L 23, 26.11.2009.

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	EU mobile citizen's use of the right to 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.	EU mobile citizen's use of the right to 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.	EU mobile citizen's use of the right to 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. <i>Member States could issue these documents in a format complying with the specifications of ICAO Document 9303 (seventh edition, 2015) on machine-readable documents.</i>	
44.	(15) 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 Council Regulation (EC) No 1030/2002 <sup>1</sup> which lays down a	(15) 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 Council Regulation (EC) No 1030/2002 <sup>2</sup> which lays down a	(15) 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 Council Regulation (EC) No 1030/2002 <sup>4</sup> which lays down a	

<sup>1</sup> Council Regulation (EC) 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJL 157, 15.6.2002, p. 1.

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	uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954 <sup>1</sup> . In addition to a prove of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.	uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954 <sup>3</sup> . In addition to a prove of the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.	uniform format for residence permits for third-country nationals as last amended by Regulation (EU) 2017/1954 <sup>5</sup> . In addition to a <del>proving of</del> the right of residence they also exempt their holders who are otherwise subject to a visa obligation from the need to obtain a visa when accompanying or joining the citizen of the Union within the Union territory.	
45.	(16) 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	(16) 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	(16) 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	

- 2 Council Regulation (EC) 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.
- 4 Council Regulation (EC) 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.
- 1 OJ L 286 of 1.11.2017, p.9.
- 3 OJ L 286 of 1.11.2017, p.9.
- 5 OJ L 286 of 1.11.2017, p.9.



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	called "Residence card of a family member of a Union citizen".	called "Residence card of a family member of a Union citizen".	called "Residence card of a family member of a Union citizen". <i>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.</i>	
46.	(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of five years 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 European Union. However, for cards which do not have important features, in particular machine readability, a shorter period of two years is necessary on security grounds.	(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of <i>eight years for ID card</i> 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 European Union. However, for cards which do not have important features, in particular machine readability, a shorter period of <i>five years</i> is necessary on security grounds	(17) Identity cards as well as residence cards of a family member of a Union citizen with insufficient security standards should be phased out taking into account both the security risk and the costs incurred by Member States. In general, a period of <i>ten years for identity cards and five years for residence cards</i> 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 European Union. However, for cards which do not have important <i>security</i> features, <del>in particular or are not</del> machine readability, a shorter period of	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>two-five</i> years is necessary on security grounds.	
47.	(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>1</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. Data subjects should be made well aware of the existence in their documents of the storage medium containing their	(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>2</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data, <i>and in particular to sensitive data such as biometric identifiers</i> . Data subjects should be made well aware of the existence in their documents of the storage	(18) With regard to the personal data to be processed in the context of the application of this Regulation, 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) <sup>3</sup> applies. It is necessary to further specify safeguards applicable to the processed personal data. Data subjects should be made well aware of the existence in their documents of the storage medium containing their	

<sup>1</sup> OJ L 119, 4 5 2016, p. 1.

<sup>2</sup> OJ L 119, 4 5 2016, p. 1.

<sup>3</sup> OJ L 119, 4 5 2016, p. 1.

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	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.	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. <i>The storage medium should be highly secure and protect personal data stored on it from illegitimate access.</i>	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 <i>by way of issuance of a new document.</i>	
48.		<i>(18 a) 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.</i>		
49.		<i>(18 b) Where Member States cooperate with external contractors in any task related to identity documents, they shall closely monitor the activities of</i>		



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>the contractor to ensure compliance with all provisions of this Regulation, including in particular security, confidentiality and data protection.</i>		
50.	<p>(19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.</p>	<p>(19) 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 their national legislation or Union law and <i>respecting the necessity and proportionality principles, Member States should store only data essential to the identification</i> 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 national or Union law. All national data should be physically or logically</p>	<p>(19) 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 their national legislation or Union law, Member States may store other data 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 national or Union law. All national data should be physically or logically separated from biometric data referred to in this Regulation.</p>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
51.		<p>separated from biometric data referred to in this Regulation. When entering and storing extra data in accordance with their national legislation or Union law, Member States should have performed a thorough data protection impact assessment, with a focus on processing of special categories of personal data.</p> <p>Member States should explicitly inform the applicants for documents, in written form and with an exhaustive list, about all the possible extra data stored.</p>		
			<p>(19a) 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 when the document is required to be produced by law. This is without prejudice to any other</p>	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<p><i>processing of these data in accordance with Union and national data protection legislation. This Regulation does not provide a legal basis for setting up or maintaining databases for storage of those data in Member States, which is a matter of national legislation that needs to comply with EU data protection legislation.</i></p>	
52.			<p><i>(19a) In order to ensure that future security standards and technical specifications adopted pursuant 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 can duly be taken into account, where appropriate, for identity cards and residence cards and permanent residence cards, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with</i></p>	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>Regulation (EU) No 182/2011 of the European Parliament and of the Council. For this purpose, the Commission should be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95. Where necessary, implementing acts may remain secret in order to prevent the risk of counterfeiting and falsifications.</i>	
53.	(20) Member States should apply this Regulation at the latest 12 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.	(20) Member States should apply this Regulation at the latest 12 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.	(20) Member States should apply this Regulation at the latest <del>12</del> 24 months after its entry into force. As from the date of application of this Regulation, Member States should issue documents respecting the requirements set out in this Regulation.	
54.	(21) The Commission should report on the implementation of this Regulation after three years after its date of application, including on the appropriateness	(21) The Commission should report on the implementation of this Regulation after three years and five years after its date of application, including on the appropriateness of the level of	(21) The Commission should report on the implementation of this Regulation after <del>three</del> four years after its date of application, including on the	

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making <sup>1</sup> the Commission should 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 the Regulation and the need for any further action.	security, <i>the possible impact on fundamental rights, and on whether the implementation is compliant with the data collection purposes.</i> In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making <sup>2</sup> the Commission should <i>after six years after the date of application of this Regulation</i> carry out an <i>initial</i> evaluation of this Regulation on the basis of information collected through specific monitoring arrangements in order to assess the actual effects of the Regulation and the need for any further action <i>and a second evaluation after 10 years after</i>	appropriateness of the level of security. In accordance with paragraphs 22 and 23 of the Interinstitutional Agreement on Better Law-Making <sup>3</sup> the Commission should 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 the Regulation and the need for any further action. <i>For the purpose of monitoring, Member States should collect data on the number of identity cards and residence documents issued.</i>	

- <sup>1</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.
- <sup>2</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.
- <sup>3</sup> Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on Better Law-Making of 13 April 2016; OJ L 123, 12.5.2016, p. 1–14.

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		<p><i>the date of application of this Regulation in order to take into account the phasing out period</i></p> <p><i>. These evaluations should particularly focus on the impact of this Regulation on fundamental rights, on the efficiency and improvement of the mobility of the Union citizens and on the level of security.</i></p>		
55.	<p>(22) 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.</p>	<p>(22) 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.</p>	<p>(22) 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.</p>	
56.	<p>(23) This Regulation respects</p>	<p>(23) <i>When implementing this</i></p>	<p>(23) This Regulation respects</p>	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.	Regulation <i>Member States shall respect the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union 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, the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.</i>	the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union including the respect for private and family life, the right to the protection of personal data, the right to free movement and the right to an effective remedy.	
57.		(23a) <i>The Fundamental Rights Agency has been consulted.</i>		
58.		(23b) <i>The European Data Protection Supervisor was consulted in accordance with</i>		

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>Article 28(2) of Regulation (EC) No 45/2001<sup>1</sup> and delivered an opinion on....,</i>		
59.	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	HAVE ADOPTED THIS REGULATION:	
60.	CHAPTER I SUBJECT MATTER, SCOPE AND DEFINITIONS	CHAPTER I SUBJECT MATTER, SCOPE AND DEFINITIONS	CHAPTER I SUBJECT MATTER, SCOPE AND DEFINITIONS	
61.	<i>Article 1</i>	<i>Article 1</i>	<i>Article 1</i>	
62.	<i>Subject matter</i>	<i>Subject matter</i>	<i>Subject matter</i>	
63.	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	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 <i>in order to facilitate the exercise of their right to freedom of</i>	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	<u>Text of Cion proposal</u>  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

<sup>1</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (JO L 8, 12.1.2001, p. 1).

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	movement.	movement <i>within the European Union</i> .	movement.	exercising their right to free movement.
64.	<i>Article 2</i>	<i>Article 2</i>	<i>Article 2</i>	
65.	<i>Scope</i>	<i>Scope</i>	<i>Scope</i>	
66.	This Regulation applies to:	This Regulation applies to:	This Regulation applies to:	
67.	(a) identity cards delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC;	(a) identity cards delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC;	(a) identity cards delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC <i>with a validity of more than twelve months</i> ;	<u>Presidency compromise proposal</u>  Identity cards delivered by Member States to their own nationals as referred in Article 4 (3) of Directive 2004/38/EC <i>with a validity of more than six months</i> ;  BZK: Dit moet twaalf maanden worden
68.	(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;	(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;	(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;	(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;



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
69.	(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.	(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.	(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.	(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.
70.	CHAPTER II NATIONAL IDENTITY CARDS	CHAPTER II NATIONAL IDENTITY CARDS	CHAPTER II NATIONAL IDENTITY CARDS	
71.	Article 3	Article 3	Article 3	
72.	Security standards/format/specifications	Security standards/format/specifications	Security standards/format/specifications	
73.		(-1) National Identity cards issued by Member States to citizens of the Union shall be recognized as such by all Member States. Such cards shall function as both identity and travel documents and be recognized as such by all		<p><u>Presidency compromise proposal</u></p> <p><u>To add a new recital before line 22 or add text to our recital in line 22:</u></p> <p><i>This Regulation should ensure that citizens can fully exercise</i></p>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>Member States.</i>		<p><i>their right of free movement. The introduction of reinforced security standards should allow public authorities and private entities to fully rely on the authenticity of ID cards when used by citizens for identification purposes.</i></p> <p><b>BZK: Akoord</b></p>
74.	<p>(1) Identity cards issued by Member States shall be produced in ID-1 format and shall comply with the minimum security standards set out in ICAO Document 9303 (seventh edition, 2015).</p>	<p>(1) <i>(1) Where Member States issue identity cards having a validity period of more than 3 months, these shall be produced in ID-1 format, contain a functional machine-readable zone (MRZ) and shall comply with the minimum standards foreseen in the template set out in Annex I to this Regulation. Additional technical specifications shall be established in accordance with international standards, including in particular the recommendations of the International Civil Aviation Organization (ICAO).</i></p>	<p>(1) Identity cards issued by Member States shall be produced in ID-1 format and shall <del>comply with the</del> 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 as set out in letters (c), (d), (f) and (g) of the Annex of Council 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. The inclusion of 'sex' in the visual inspection</p>	<p><u>To be discussed</u></p>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>zone shall be optional.</i>	
75.		<i>(1 a) The card shall be made entirely of polycarbonate or an equivalent synthetic polymer with a background colour of blue.</i>		<p>To be discussed</p> <p>BZK: de blauwe kleur kan geen reden zijn voor eerder uitfaseren. Ook zou een kleur geen onderdeel van de verordening moeten zijn.</p> <p>Het is te begrijpen dat een gemeenschappelijk EU kenmerk gekozen wordt, maar dat kunnen er geen meerdere zijn</p>
76.		<i>(1 b) By derogation from paragraph 1, the field gender is not a minimum standard.</i>		<p><u>Presidency compromise proposal</u></p> <p><i>(1 b) By derogation from paragraph 1, the data element 'sex' as provided by ICAO Document 9303 (seventh edition, 2015) shall be optional.</i></p> <p><u>Plus to add this new recital in line 33:</u></p> <p><i>Member States should be able to decide whether to include a person's gender on a document. The specifications of ICAO Document 9303 (seventh edition, 2015) should be used for such information.</i></p> <p>BZK: 'the data element', gaat mogelijk verder dan het de visuele inspectiezone. Wellicht dat lidstaten dit problematisch vinden. In de machine uitleesbare zone (MRZ) zal bijvoorbeeld altijd iets moeten staan. Nederland hecht voornamelijk aan de visuele inspectiezone, opname van sekse in de MRZ en chip zijn voor ons minder belangrijk.</p>
77.	(2) The document title ('Identity card') shall appear in the official language or	(2) The document title ('Identity card') shall appear in the official language or	(2) The document shall bear the title ('Identity card') <del>shall appear in or another well-</del>	<p><u>Text of Council mandate</u></p> <p>(2) The document shall bear</p>



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	languages of the issuing Member State and at least one other official language of the institutions of the Union.	languages of the issuing Member State and at least one other official language of the institutions of the Union.	<i>established national designation in the official language or languages of the issuing Member State, and 'identity card' in at least one other official language of the institutions of the Union.</i>	<i>the title 'Identity card' shall appear in or another well-established national designation in the official language or languages of the issuing Member State, and 'identity card' in at least one other official language of the institutions of the Union.</i>
78.		(2 a) <i>The identity card shall contain a distinguishing sign of the Member State issuing the card printed in negative in a blue rectangle encircled by 12 yellow stars.</i>		<p><u>Presidency compromise proposal</u></p> <p><i>As of [date of application plus five years], all identity cards issued shall contain a distinguishing sign of the Member State issuing the card printed in negative in a blue rectangle encircled by 12 yellow stars.</i></p> <p>BZK: Het design kan geen reden zijn voor eerder uitfaseren. De deadline moet hoe dan ook aansluiten bij normaal verval (10 jaar).</p>
79.	(3) 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 formats.	(3) Identity cards shall include a highly secure storage medium which shall contain a facial image of the holder of the card <i>taken live by the relevant authority in the Member State and, in case a Member State decide may also contain a subset of the characteristics, namely minutiae or patterns,</i>	(3) 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.	<p><u>To be discussed</u></p> <p>BZK: Nederland is voorstander van Live-capture als standaard. Nederland is voor optionaliteit van vingerafdrukken Nederland is, als voor vingerafdrukken gekozen wordt, kritisch over de opslag van vingerafdrukken als minutiae of patronen omdat dit vaak gebonden is aan standaarden van leveranciers. De EU zou een eigen open standaard moeten ontwikkelen als voorwaarde voor deze eis. EU Standaardisatie is nodig om interoperabiliteit, ook met paspoorten te garanderen.</p>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>extracted from two fingerprints taken flat in interoperable formats, for the sole purposes set out in Article 10(3) of this Regulation.</i>		
80.	(4) 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 Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002.	<i>deleted</i>	(4) 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 <del>and secured as provided for in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002.</del> Member States shall exchange the information necessary to authenticate the storage medium and to access and verify the biometric data referred to in paragraph 3.	<i>Deleted</i> (see line 89 with similar provision)
81.		(4 a) In the event Member State decide to take fingerprints, children under the age of 12 years may be exempt from the requirement to give		<u>Presidency compromise proposal</u>  [(4 a) Children under the age of 12 years may be exempt from the requirement to give fingerprints.]

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>fingerprints.</i>		<p><i>The inclusion of the sentence "In the event Member State decide to take fingerprints" at the beginning of the paragraph depends on the decision concerning the compulsory inclusion of fingerprints (line 79)</i></p> <p>BZK Als vingerafdrukken verplicht worden zouden kinderen onder de 12 altijd uitgezonderd moeten worden.</p>
82.		<i>Children under the age of 6 years shall in any case be exempt from the requirement to give fingerprints.</i>		<p><u>Presidency compromise proposal</u></p> <p><i>Children under the age of 6 years shall be exempt from the requirement to give fingerprints.</i></p>
83.		<i>Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints.</i>		<p><u>Presidency compromise proposal</u> [moved from line 86 and period modified to six months]</p> <p><i>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 an identity card having a validity of <u>six months or less</u>.</i></p> <p>BZK: Aansluiten bij de regeling die voor paspoorten al geldt: 12 maanden geldig document. Mensen die vanwege ziekte geen vingerafdrukken kunnen geven niet lastigvallen met deze bureaucratie.</p>



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
				<del>Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints.</del>
84.	(5) The following persons shall be exempt from the requirement to give fingerprints:	<i>deleted</i>	(5) Children under the age of 12 years may <del>The following persons shall be</del> exempt from the requirement to give fingerprints.	<i>deleted – see provision in lines 81 and 82</i>
85.	(a) children under the age of 12 years;	<i>deleted</i>	<del>(a) children under the age of 12 years;</del>	<i>deleted</i>
86.			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 an identity card having a validity of twelve months or less.	<i>deleted - Council text moved to line 83 and modified (validity of six months not twelve)</i>
87.	(b) persons whose fingerprinting is physically impossible.	<i>deleted</i>	<del>Persons whose fingerprinting is physically impossible shall be exempt from the requirement to give fingerprints.</del>	<i>deleted - Council text moved to line 83</i>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
88.			<p><i>(5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013.]</i></p>	<p><u>Presidency compromise proposal (Council text [updated reference to Cion decision])</u></p> <p><i>5a) For the purposes of this article, Member States shall apply the standards as established by the provisions of 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.</i></p>
89.		<p><i>(5 a) The storage medium shall have sufficient capacity and capability to guarantee the integrity, the security, the authenticity and the confidentiality of the data. The data stored shall be accessible in contactless form and secured as provided for in the Commission Implementing Decisions adopted in accordance with Article 2 of Regulation (EC) 1030/2002. Member States shall exchange</i></p>		<p><u>Presidency compromise proposal (provision similar to text of Cion proposal in line 80)</u></p> <p><i>(5 a) The storage medium shall have sufficient capacity and capability to guarantee the integrity, the security, the authenticity and the confidentiality of the data. The data stored shall be accessible in contactless form and secured as provided for in the Commission Implementing Decisions adopted</i></p>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<p><i>with each other digital certificates, which are required to authenticate, verify and read the information contained on the secure storage medium.</i></p> <p><i>Formats used for the secure storage medium shall be interoperable, including with automated border crossing points.</i></p>		<p><i>in accordance with Article 2 of Regulation (EC) 1030/2002.</i></p> <p><i>Member States shall exchange with each other information required to access, authenticate, and verify the biometric data contained on the secure storage medium.</i></p>
90.	(6) Member States may enter details and observations for national use as required in the light of their national provisions.	<p>(6) <i>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 effectiveness of minimum security standards and the cross-border interoperability of identity cards shall not be diminished.</i></p>	(6) Member States may enter details and observations for national use as required in the light of their national provisions.	<p><u>Presidency compromise proposal (EP text [modified])</u></p> <p>(6) <i>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.</i></p>
91.	(7) Where Member States incorporate a dual interface or a separate storage medium in the	(7) Where Member States incorporate a dual interface or a separate storage medium in the	(7) Where Member States incorporate a dual interface or a separate storage medium in the	(7) Where Member States incorporate a dual interface or a separate storage medium in the



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	identity card, the additional storage medium shall comply with the relevant ISO standards and not interfere with the storage medium referred to in paragraph 3.	identity card, the additional storage medium shall comply with the relevant ISO standards and not interfere with the storage medium referred to in paragraph 3.	identity card, the additional storage medium shall comply with the relevant ISO standards and not interfere with the storage medium referred to in paragraph 3.	identity card, the additional storage medium shall comply with the relevant ISO standards and not interfere with the storage medium referred to in paragraph 3.
92.	(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.	(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.	(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.	(8) Where Member States store data for electronic services such as e-government and e-business in the identity cards, the national data shall be physically or logically separated from the biometric data referred to in paragraph 3.
93.	(9) Where Member States add national security features to the identity cards, the cross-border interoperability of the identity cards and the efficiency of the minimum security standards shall not be diminished.	(9) Where Member States add <i>further</i> security features to the identity cards, the cross-border interoperability of the identity cards and the efficiency of the minimum security standards shall not be diminished.	(9) Where Member States add national security features to the identity cards, the cross-border <del>interoperability-compatibility</del> of the identity cards and the efficiency of the minimum security standards shall not be diminished.	<u>Presidency compromise proposal</u>  (9) Where Member States add <i>further</i> security features to the identity cards, the cross-border <del>interoperability-compatibility</del> of the identity cards and the efficiency of the minimum security standards shall not be diminished.
94.		(9 a) <i>The Commission shall adopt implementing acts laying down the technical specifications referred to in</i>		<u>Presidency compromise proposal</u>  <i>Deleted (already covered by lines</i>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>paragraphs 1, 1a and 2a, in accordance with the examination procedure referred to in Article 12b.</i>		193-199)
95.	(10) Identity cards shall have a maximum period of validity of 10 years. Derogations may be provided for specific age groups.	<i>deleted</i>	(10) Identity cards shall have a maximum period of validity of 10 years. Derogations may be provided for <del>specific age groups</del> persons aged 70 and above. Identity cards issued to children under the age of 12 shall have a maximum period of validity of 5 years.	<u>Presidency compromise proposal</u> <i>Deleted (see lines 98 and 102)</i>
96.		<i>Article 3 a</i>		
97.		<i>Period of validity</i>		
98.		(1) Identity cards should shall have a period of validity of ten years.		<u>Presidency compromise proposal</u> (1) Identity cards shall have a minimum period of validity of five years and a maximum period of validity of ten years. <i>BZK: Hierbij zou idealiter gesproken moeten worden over de veiligheid van de chip. In tien jaar kan veel gebeuren.</i>
99.		(2) In the event a Member State decides to take fingerprints, identity cards issued to minors that do not contain fingerprints		To be discussed <i>BZK: De geldigheidsduur van kaarten onder deze leeftijdsgrens moet aansluiten zodat elke kaart voor de maximale geldigheid gebruikt kan worden (bijvoorbeeld 5 jaar geldigheid en 12 jaar als leeftijdsgrens sluit niet aan)</i>



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>shall cease to be valid at the latest when their holder has reached the age of the requirement to give fingerprints plus six month.</i>		
100.		<i>(3) Identity cards issued to minors may have a period of validity of five years.</i>		<u>Presidency compromise proposal</u>  <i>(2) Identity cards issued to minors shall have a maximum period of validity of five years.</i>  BZK: Zie vorig punt over aansluiten tussen geldigheid een leeftijd.
101.		<i>(4) Where it is temporarily impossible to take fingerprints or a facial image, identity cards shall have a maximum period of validity of 3 months.</i>		<u>Presidency compromise proposal</u>  Deleted (covered in line 83)
102.		<i>(5) Member States may provide for a period of validity of more than 10 years for identity cards issued to persons over 75 years of age.</i>		<u>Presidency compromise proposal (Council mandate)</u>  <i>(5) Member States may provide for a period of validity of more than 10 years for identity cards issued to persons over 70 years of age.</i>
103.	<i>Article 4</i>	<i>Article 4</i>	<i>Article 4</i>	
104.	<i>Collection of biometric</i>	<i>Collection of biometric</i>	<i>Collection of biometric</i>	



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	<i>identifiers</i>	<i>identifiers</i>	<i>identifiers</i>	
105.	(1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards.	(1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards.	(1) The biometric identifiers shall be collected by qualified and duly authorised staff designated by the national authorities responsible for issuing identity cards. <i>In view of ensuring the consistency of biometric identifiers with the identity of the applicant, the latter shall appear in person for each application at least once during the issuance process.</i>	<u>To be discussed</u>  <i>Deleted (covered in lines 147-153)</i>
106.	(2) 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.	(2) 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.	(2) <i>The procedure for collecting biometric identifiers shall take into account the specific needs of children and shall be carried out in accordance with the safeguards laid down in the Council of Europe's Convention for the Protection of Human Rights and Fundamental Freedoms, in the Charter of Fundamental Rights of the European Union and in the United Nations Convention on the Rights of the</i>	<u>To be discussed</u>  <i>Deleted (covered in lines 147-153)</i>

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>Child.</i> 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.	
107.	<i>Article 5</i>	<i>Article 5</i>	<i>Article 5</i>	
108.	<i>Phasing out</i>	<i>Phasing out</i>	<i>Phasing out</i>	
109.	Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by five years after [ <i>the date of application of the Regulation</i> ], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by two years after [ <i>the date of application of this Regulation</i> ], whichever is earlier.	Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <i>eight</i> years after [the date of application of the Regulation], whichever is earlier. However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by <i>five</i> years after [the date of application of this Regulation], whichever is earlier.	(1) Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <del>five-ten</del> years after [ <i>the date of application of the Regulation</i> ], whichever is earlier. <del>However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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.</del>	<u>Presidency compromise proposal</u>  (1) Identity cards which do not meet the requirements of Article 3 shall cease to be valid at their expiry or by <del>five-eight</del> years after [ <i>the date of application of the Regulation</i> ], whichever is earlier. <del>However, identity cards which do not include a functional machine-readable zone (MRZ) compliant with ICAO document 9303 part 3 (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.</del>  BZK: Dit moet aansluiten bij het normale Verloop van kaarten wat nu in NL 10 jaar is.

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
110.			(2) <i>By way of derogation from paragraph 1:</i>	<u>To be discussed</u>
111.			(a) <i>identity cards which do not meet the minimum security standards set out in ICAO document 9303 part 2 (seventh edition, 2015) or do not include a functional machine-readable zone (MRZ), as defined in paragraph 3, compliant with ICAO document 9303 part 3 (seventh edition, 2015) shall cease to be valid at their expiry or by two five years after [the date of application of this Regulation], whichever is earlier.;</i>	<u>To be discussed</u>
112.			(b) <i>identity cards of persons aged 70 and above at [the date of application of the Regulation] which meet the minimum security standards set out in ICAO document 9303 part 2 and have a functional machine-readable zone (MRZ), as defined in paragraph 3, shall</i>	<u>To be discussed</u>



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			<i>cease to be valid at their expiry.</i>	
113.			(3) <i>For the purpose of paragraph 2, a functional machine-readable zone (MRZ) shall mean:</i>	<u>To be discussed</u>
114.			(a) <i>a machine-readable zone compliant with ICAO document 9303 part 3 (seventh edition, 2015),</i>	<u>To be discussed</u>
115.			(b) <i>or, 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, by [the date of application of the Regulation], the Commission 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.</i>	<u>To be discussed</u>  BZK: Voor de bedrijfsvoering van grenscontroleurs niet erg handig, er worden nog tien jaar lang twee standaarden voor MRZ's geaccepteerd. Eerder is besloten hier geen punt van te maken, mocht het opkomen wel graag aankaarten. (Franse documenten moeten altijd langs manuele controle omdat verloopdatum niet in MRZ is verwerkt)

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
116.	<b>CHAPTER III RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	<b>CHAPTER III RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	<b>CHAPTER III RESIDENCE DOCUMENTS FOR UNION CITIZENS</b>	
117.	<i>Article 6</i>	<i>Article 6</i>	<i>Article 6</i>	
118.	<i>Minimum information to be indicated</i>	<i>Minimum information to be indicated</i>	<i>Minimum information to be indicated</i>	
119.	Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	Residence documents issued by Member States to citizens of the Union <i>are blue in colour and shall indicate in the same order as provided for in the annex of this regulation</i> , at least the following:	Residence documents issued by Member States to citizens of the Union shall indicate at least the following:	<u>To be discussed</u> NL ziet niet in waarom de kleur van een verblijfsdocument onderdeel moet zijn van de verordening?
120.	(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	(a) the title of the document, ' <i>EU citizen</i> ', also translated in the official language or languages of the Member State concerned;	(a) the title of the document in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union;	<u>Presidency compromise proposal</u> (a) the title of the document followed by the words ' <i>EU citizen</i> ' in the official language or languages of the Member State concerned and at least one other official language of the institutions of the Union; Een designmaatregel kan geen reden zijn voor eerder moeten vervallen van een kaart. Wenselijk om de kaart te kunnen vervangen op moment van afloop geldigheidsduur (zie bij 140 voorstel Cie en EP voor uitfaseren) Dat is dan voor burger en ook voor IND op een natuurlijk moment (als verblijfsvergunning verloopt moet aanvraag verlenging worden gedaan en bij inwilliging kan dan een nieuw verblijfsdocument dat voldoet aan gestelde nieuwe eisen worden afgegeven).



121.	(b) the clear reference that the document is issued in	(b) the clear <i>statement</i> that the document is issued in accordance with Directive	(b) the clear reference that the document is issued in	Presidency compromise proposal
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Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	accordance with Directive 2004/38/EC;	2004/38/EC;	accordance with Directive 2004/38/EC;	(b) the clear <i>statement</i> that the document is issued in accordance with Directive 2004/38/EC;
122.	(c) document number;	(c) document number;	(c) document number;	(c) document number;
123.	(d) name (surname and forename(s)) of the holder;	(d) name (surname and forename(s)) of the holder;	(d) name (surname and forename(s)) of the holder;	(d) name (surname and forename(s)) of the holder;
124.	(e) date of birth of the holder;	(e) date of birth of the holder;	(e) date of birth of the holder;	(e) date of birth of the holder;
125.			(ea) 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;	Presidency compromise proposal (Council mandate)  (ea) 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;
126.	(f) date of issue;	(f) date of issue;	(f) <del>date of issue;</del>	Presidency compromise proposal (Council mandate) <del>deleted</del>  plaats van afgifte is <del>deleted</del> : op verblijfsdocument staat nu datum afgifte (ook bij derdelanders); dit handhaven en zo ook aansluiten document derdelanders

127.	(g) place of issue.	(g) place of issue.	(g) place of issuing	Presidency compromise proposal
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Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
			authority.	<p><b>(Council mandate)</b></p> <p><b>(g) place-of-issuing authority.</b></p> <p>Nederland wil plaats van afgifte handhaven om dezelfde reden als bij nr 126 en wil niet verplicht worden de uitgevende instantie erop te zetten (staat nu niet op document, zou dan ook weer anders zijn dan verblijfsdocument derde landers).</p>
128.		<p><b>(g a) a distinguishing sign of the Member State issuing the card printed in negative in a blue rectangle encircled by 12 yellow stars.</b></p> <p><i>The Commission is empowered to adopt an implementing act defining the technical specifications. The Commission is empowered to adopt an implementing act defining the technical specifications.</i></p>		<p><b>Presidency compromise proposal</b></p> <p><i>As of [date of application plus five years], all residence documents issued by Member States to citizens of the Union shall contain a distinguishing sign of the Member State issuing the card printed in negative in a blue rectangle encircled by 12 yellow stars.</i></p> <p>JenV? Een designmaatregel kan geen reden zijn voor eerder moeten vervallen van een kaart. Nederland wil voor deze doelgroep hetzelfde document als voor derde landers gebruiken. Het documenttype geeft duidelijk aan dat het een familielid .....</p>

129.		<p><i>In the event a Member State decides to take fingerprints, 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. Persons whose fingerprinting is physically impossible shall be exempt from the requirement to</i></p>	<p><u>Presidency compromise proposal</u></p> <p><i>If a Member State decides to take fingerprints, Art 3(4a) [lines 81- 83] shall apply accordingly.</i></p> <p><i>Where fingerprinting of the designated fingers is temporarily impossible, Member States shall allow the fingerprinting of the other fingers. Persons whose fingerprinting is physically</i></p> <p><i>NL heeft voorbehoud bij de verwijzing naar lines 81-83 bij 81 geeft BZK aan om als vingerafdrukken verplicht worden dat kinderen &lt;12 jaar altijd uitgezonderd moeten worden. Dit is ongewenst voor verblijfsdocumenten, willen aansluiten bij huidige regel vrijgesteld &lt; 6 jaar. &gt; regel 81 in tekstvoorstel niet laten gelden voor verblijfsdocumenten.</i></p> <p><i>Verder steun om mogelijkheid te hebben om bij tijdelijke onmogelijkheid van andere vingers vingerafdrukken af te nemen (gebeurt nu ook).</i></p>
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Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
		<i>give fingerprints.</i>		<i>impossible shall be exempt from the requirement to give fingerprints.</i>
130.	<b>CHAPTER IV RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	<b>CHAPTER IV RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	<b>CHAPTER IV RESIDENCE CARDS FOR FAMILY MEMBERS WHO ARE NOT NATIONALS OF A MEMBER STATE</b>	
131.	<i>Article 7</i>	<i>Article 7</i>	<i>Article 7</i>	
132.	<i>Uniform format</i>	<i>Uniform format</i>	<i>Uniform format</i>	
133.		<i>(1 a) By derogation from Directive 2004/38/CE new Residence cards for family members of Union citizens who are not nationals of a Member State shall be recognised as such by all Member States. Such cards shall function as both identity and travel documents and be recognised as such by all Member States.</i>		<u>To be discussed</u> NL heeft voorbehoud bij voorstel dat het verblijfsdocument als reisdocument gebruikt kan worden.
134.	(1) When issuing residence cards to family members of Union citizens who are not nationals of a Member State,	(1) When issuing residence cards to family members of Union citizens who are not nationals of a Member State,	(1) When issuing residence cards to family members of Union citizens who are not nationals of a Member State,	<u>Presidency compromise proposal</u> (Council mandate and updated reference to Cion decision)

Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	<p>Member States shall use the same format as established by the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.</p>	<p>Member States shall use the same format as established by the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by Commission Decision C(2013) 6178 of 30.9.2013.</p>	<p>Member States shall use the same format <i>and conditions for the taking of biometric identifiers</i> as established by the provisions of Council 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 Commission Decision C(2002) 3069 of 14 August 2002 establishing technical specifications for the implementation of the uniform format for residence permits for third country nationals as last amended by [Commission Decision C(2013) 6178 of 30.9.2013].</p>	<p>(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 the provisions of Council 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 Commission Decision C(2013) 6178 of 30 November 2013 laying down the technical specifications for the uniform format for residence permits for third country nationals</p>
135.	<p>(2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family</p>	<p>(2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family</p>	<p>(2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in accordance with Directive 2004/38/EC and shall bear the title 'Residence card of a family</p>	<p><u>Presidency compromise proposal (Council mandate)</u></p> <p>(2) By derogation from paragraph 1, a card shall indicate clearly that it is issued in</p>



Line	Commission proposal (8175/18)	EP amendments	Council negotiating mandate (14360/18)	Compromise text proposals
	member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', respectively. Member States may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively.	member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', respectively. Member States may use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC', respectively.	<del>member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may shall use the standardised code 'Art 10 DIR 2004/38/EC' or 'Art 20 DIR 2004/38/EC',</del> respectively in data field [10] as referred to in the Annex of Council 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.	<del>accordance with Directive 2004/38/EC and shall</del> bear the title 'Residence card of a family member of a Union citizen' or 'Permanent residence card of a family member of a Union citizen', 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 may shall use the standardised code ' <u>Family Member EU</u> Art 10 DIR 2004/38/EC' or ' <u>Family Member EU</u> Art 20 DIR 2004/38/EC', respectively in data field [10] as referred to in the Annex of Council 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.
136.	(3) Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall	(3) Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall	(3) Member States may enter data for national use in accordance with national law. When entering and storing such data, Member States shall	(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 same