Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals

COUNCIL REGULATION (EC) No 1030/2002

of 13 June 2002

laying down a uniform format for residence permits for third-country nationals

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular point 3 of Article 63 thereof,

Having regard to the proposal from the Commission[(1)],

Having regard to the opinion of the European Parliament[(2)],

Whereas:

(1) The Treaty of Amsterdam aims to establish progressively an area of freedom, security and justice and confers a shared right of initiative on the Commission in order to take the relevant measures on a harmonised immigration policy.

(2) Paragraph 38(c)(ii) of the action plan of the Council and the Commission on how best to implement the provisions of the Treaty of Amsterdam on an area of freedom, security and justice[(3)] provides for the preparation of rules concerning procedures for the issue by Member States of long-visas and residence permits.

(3) The Tampere European Council of 15 and 16 October 1999 emphasised the need for this harmonised immigration policy, particularly in view of the provisions of the Treaty relating to the entry and residence of third-country nationals.

(4) Council Joint Action 97/11/JHA[(4)] concerning a uniform format for residence permits confirms the need to harmonise the format of residence permits issued by Member States to third-country nationals. Consequently, it is appropriate that Joint Action 97/11/JHA should henceforth be replaced by a Community act.

(5) It is essential that the uniform format for residence permits should contain all the necessary information and meet very high technical standards, in particular as regards safeguards against counterfeiting and falsification. This will contribute to the objective of preventing and combating illegal immigration and illegal residence. The format should also be suited to use by all the Member States and bear universally recognisable harmonised security features, which are visible to the naked eye.

(6) In order to improve protection of residence permits against counterfeiting and falsification, Member States and the Commission will consider at regular intervals, in line with technological developments, what changes should be made to the security features built into permits, especially incorporation and use of new biometric features.

Changes to legislation: *There are outstanding changes not yet made to Council Regulation (EC) No 1030/2002. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

(7) This Regulation only lays down such specifications as are not secret. These specifications need to be supplemented by specifications which are to remain secret in order to prevent the risk of counterfeiting and falsifications and which may not include personal data or references to such data. Powers to adopt such additional technical specifications should be conferred on the Commission, which will be assisted by the Committee established by Article 6 of Council Regulation (EC) No 1683/95 of 29 May 1995 laying down a uniform format for visas[(5)]. In this respect, it should be ensured that any lack of continuity with regard to the residence permits arising from the Council Decisions of 17 December 1997 and 8 June 2001 is avoided.

(8) To ensure that the information in question is not divulged more widely than is necessary, it is also essential that each Member State designate a single body for printing the uniform format for residence permits, while retaining the possibility of changing that body, if necessary. For security reasons, each Member State should communicate the name of the competent body to the Commission and to the other Member States.

(9) Member States should, in consultation with the Commission, implement the necessary measures to ensure that the processing of personal data complies with the level of protection referred to in Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data[(6)].

(10) The measures necessary for the implementation of this Regulation should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission[(7)].

(11) This Regulation does not affect the competence of Member States with regard to the recognition of States and territorial entities and passports, travel and identity documents issued by their authorities.

(12) In accordance with Articles 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark is not participating in the adoption of this Regulation and is therefore not bound by it or subject to its application. Given that this Regulation aims to build upon the Schengen *acquis* under the provisions of the third part of Title IV of the Treaty establishing the European Community, Denmark will, in accordance with Article 5 of the said Protocol, decide within a period of six months after the Council has adopted this Regulation whether it will transpose it into its national law.

(13) As regards the Republic of Iceland and the Kingdom of Norway, this Regulation constitutes a development of the provisions of the Schengen *acquis* falling within the area referred to in Article 1, point B, of Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis*[(8)].

(14) In accordance with Article 3 of the Protocol on the position of the United Kingdom and Ireland annexed to the Treaty on European Union and to the Treaty establishing the

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European Community, the United Kingdom gave notice, by letter of 3 July 2001, of its wish to take part in the adoption and application of this Regulation.

(15) In accordance with Article 1 of the said Protocol, Ireland is not participating in the adoption of this Regulation. Consequently and without prejudice to Article 4 of the aforementioned Protocol, the provisions of this Regulation do not apply to Ireland,

HAS ADOPTED THIS REGULATION:

Article 1

1 Residence permits issued by Member States to third-country nationals shall be drawn up in a uniform format and provide sufficient space for the information set out in the Annex hereto. **[**F1Residence permits to third-country nationals shall be issued as stand-alone documents in ID 1 or ID 2 format.**]** Each Member State may add in the relevant space of the uniform format information of importance regarding the nature of the permit and the legal status of the person concerned, in particular information as to whether or not the person is permitted to work.

2 For the purpose of this Regulation,

a ‘residence permit’ shall mean any authorisation issued by the authorities of a Member State allowing a third-country national to stay legally on its territory, with the exception of:

(i) visas;

(ii) **[**F1permits issued pending examination of a request for asylum, an application for a residence permit or an application for its extension;**]**

(iia) **[**F2permits issued in exceptional circumstances with a view to an extension of the authorised stay with a maximum duration of one month;**]**

(iii) authorisations issued for a stay of a duration not exceeding six months by Member States not applying the provisions of Article 21 of the Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders(9);

b ‘third-country national’ shall mean any person who is not a citizen of the Union within the meaning of Article 17(1) of the Treaty.

Textual Amendments

F1 Substituted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

F2 Inserted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

Article 2

1 Additional technical specifications for the uniform format for residence permits relating to the following shall be established in accordance with the procedure referred to in Article 7(2):

a additional security features and requirements including enhanced anti-forgery, counterfeiting and falsification standards;

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b technical processes and rules for the filling in of the uniform residence permit;

c other rules to be observed for the filling in of the uniform residence permit**[**F1;**]**

[F2d technical specifications for the storage medium of the biometric features and the security thereof, including prevention of unauthorised access;

e requirements for the quality of and common standards for the facial image and the fingerprint images;

f an exhaustive list of additional national security features which could be added by Member States in accordance with point (h) of the Annex.**]**

2 The colours of the uniform residence permit may be changed in accordance with the procedure referred to in Article 7(2).

Textual Amendments

F1 Substituted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

F2 Inserted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

Article 3

[F1In accordance with the procedure referred to in Article 7(2), it may be decided that the specifications referred to in Article 2 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 the printing and to persons duly authorised by a Member State or the Commission.**]**

Each Member State shall designate one body having responsibility for printing the uniform residence permit. 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.

Textual Amendments

F1 Substituted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

Article 4

Without prejudice to data protection rules, persons to whom the residence permit is issued shall have the right to verify the personal particulars contained in the residence permit and, where appropriate, to have them corrected or deleted.

[F1No information in machine-readable form shall be included on the resident permit or on the storage medium of the residence permit referred to in Article 4a, unless provided for in this Regulation, or its Annex or unless it is mentioned in the related travel document by the issuing State in accordance with its national legislation. Member States may also store data for e-services such as e-government and e-business as well as additional provisions relating to the residence permit on a chip referred to in point 16 of the Annex. However, all national data must be logically separated from the biometric data referred to in Article 4a.

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For the purposes of this Regulation, the biometric features in residence permits shall only be used for verifying:

(a) the authenticity of the document;

(b) the identity of the holder by means of directly available comparable features when the residence permit is required to be produced by national legislation.**]**

Textual Amendments

F1 Substituted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

[F2 Article 4a

The uniform format for residence permits shall include a storage medium containing the facial image and two fingerprint images of the holder, both in interoperable formats. The data shall be secured and the storage medium shall be of sufficient capacity and capability to guarantee the integrity, authenticity and confidentiality of the data.

Textual Amendments

F2 Inserted by Council Regulation (EC) No 380/2008 of 18 April 2008 amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

Article 4b

For the purposes of this Regulation, Member States shall take biometric identifiers comprising the facial image and two fingerprints from third-country nationals.

The procedure shall be determined in accordance with the national practice of the Member State concerned and with the safeguards laid down in the Convention for the Protection of Human Rights and Fundamental Freedoms and in the United Nations Convention on the Rights of the Child.

The following biometric identifiers shall be taken:

— a photograph provided by the applicant or taken at the time of application and,

— two fingerprints taken flat and digitally captured.

The technical specifications for the capture of biometric identifiers shall be set out in accordance with the procedure described in Article 7(2) and with ICAO standards and the technical specifications for passports issued by Member States to their nationals pursuant to Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States[(10)].

The capture of fingerprints is compulsory as of six years of age.

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