Residence permits: uniform format, biometric identifiers

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OPINION OF THE EUROPEAN DATA PROTECTION SUPERVISOR on the modified proposal for a Council Regulation amending Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals.

On 13 June 2002, in an effort to harmonise the format of residence permits issued by Member States to third-country nationals, the Council adopted Regulation (EC) No 1030/2002 laying down a uniform format for residence permits for third-country nationals. In the sixth recital of the Regulation, Member States and the European Commission agreed to consider, at regular intervals and according to technological developments, what changes should be made in order to enhance the security features built into permits. Biometric features were given as an illustrative example.

On 24 September 2003, the European Commission proposed a Council Regulation amending Regulation (EC) No 1030/2002. This Regulation was proposed together with another proposal for a Council Regulation amending Regulation (EC) No 1683/95 laying down a uniform format for visas. The main goal of both proposals was to introduce biometric data (facial image and two fingerprint images of the holder) in these new uniform formats of residence permits and visas. Due to a number of technological uncertainties, the format of the residence permit (sticker or stand-alone card) was not defined. Following a consultation procedure, these proposals were submitted to the European Parliament.

On 10 March 2006, the European Commission submitted a modified proposal for a Council Regulation amending Regulation (EC) No 1030/2002. In this modified proposal, a stand-alone card was the format decided upon due to potential collisions between contact-less chips. A defined area (zone 16 according to the annex of the proposal) will also be offered to those Member States which intend to embed a contact chip in the residence permit dedicated to e-services.

The EDPS welcomes this proposal which aims at better harmonising the EU immigration policy in general and the development of a uniform format for residence permit in particular.

The EDPS recognises the fact that the use of biometric features may improve protection of resident permits as well as fighting illegal immigration and illegal residence. However, the insertion of biometric data will contribute to these goals only if stringent safeguards for their use are implemented and only if their imperfections are mitigated with proper fallback procedures.

The EDPS recommends postponing the insertion of an additional chip for e-services purposes until complete impact assessment and risks assessment studies have been conducted and their results have been properly analysed.

Considering that while a residence permit is not a travel document it will be used in the Schengen area as an ID related document, the EDPS stresses the need for adopting highest security standards in line with the security specifications adopted by the Members States which are developing an e-ID card.

Concerning the residence permit development and implementation, technological choices with consistent impact on data protection should preferably be made by way of regulation, in accordance with the co-

decision procedure. In other cases with an impact on data protection, the EDPS shall be given an advisory role included in Article 7 of the Regulation on the choices made by the committee foreseen by the proposal.