# Security of identity cards of Union citizens and of residence documents issued to Union citizens and their family members

2024/0187(CNS) - 23/07/2024 - Legislative proposal

PURPOSE: to strengthen 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.

PROPOSED ACT: Council Regulation.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: on 17 April 2018, the Commission adopted, on the basis of Article 21(2) of the Treaty on the Functioning of the European Union (TFEU), 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.

On the basis of that proposal, Parliament and the Council adopted Regulation (EU) 2019/1157 which has been in application since 2 August 2021.

In case Landeshauptstadt Wiesbaden, the Court of Justice ruled that Regulation (EU) 2019/1157 is invalid due to it having been adopted erroneously on the basis of Article 21(2) TFEU and under the ordinary legislative procedure.

While declaring Regulation (EU) 2019/1157 invalid, the Court ruled that the “effects of Regulation 2019 /1157 are to be maintained until the entry into force, within a reasonable period which may not exceed two years from 1 January of the year following the date of delivery of the present judgment, of a new regulation based on Article 77(3) TFEU and intended to replace it”.

CONTENT: this proposal essentially reproduces the text of Regulation (EU) 2019/1157 as adopted by the Parliament and the Council. Nevertheless, the Commission considers that it is appropriate to adapt the text in certain minor aspects:

- the new legal basis of the Regulation is **Article 77(3)TEU** (special legislative procedure – Parliament’s consultation) to take account of the ruling in Landeshauptstadt Wiesbaden;

- the suppression, in the recitals of the regulation, of references to policy documents adopted several years ago;

- the suppression of the explicit reference in the recitals to the passport card issued by Ireland, given that Ireland is not taking part in the adoption of the regulation unless it notifies that it wishes to take part in its adoption and application;

- the inclusion in the recitals of the regulation of a reference to the fact that the Court of Justice has ruled that the mandatory inclusion of fingerprints on the storage medium is compatible with the fundamental rights to respect for private life and to protect personal data;

- the adaptation of the recital on the phasing-out of documents not complying with the requirements of the regulation to reflect the fact that the deadlines established by Regulation (EU) 2019/1157 should continue to apply;

- the addition of recitals to reflect the respective opt-outs of Ireland and Denmark;

- a new consultation of the European Data Protection Supervisor will be carried out;

- a provision according to which certain residence cards of family members of Union citizens who are not nationals of a Member State ceased to be valid at their expiry or by 3 August 2023;

- adaptation of Article 11(6) of Regulation (EU) 2019/1157 to state that only fingerprints may be consulted exclusively by duly authorised staff of the competent national authorities and EU authorities and Union agencies;

- reducing reporting obligations for Member State authorities, the obligation to maintain, and communicate annually to the Commission, a list of the competent authorities with access to the biometric data stored on the storage medium is removed;

- reducing reporting obligations for Member State authorities, the rules on reporting and evaluation are streamlined. Instead of evaluating the regulation every six years, a single evaluation will be carried out by the Commission six years after the regulation enters into force, specifically focusing on a number of elements falling within the scope of the regulation.