



EUROPEAN COMMISSION

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Dear President,

The Commission would like to thank the Tweede Kamer for its Opinion concerning biometrics in passports as set out in Regulation (EC) No 2252/2004 on standards for security features and biometrics in passports and travel documents issued by Member States.

The Tweede Kamer expresses concerns about the effectiveness of the biometric identifiers stored on the passport chip and suggests an investigation to review the usefulness and necessity of the Regulation, obliging Member States to include the facial image and two fingerprints on the chip of passports issued to their citizens.

The Tweede Kamer also refers to various problems with biometric passports and many shortcomings in the system, which in its view raise doubts about the necessity of biometric features in the passport and the risk of misuse of fingerprints, which will have an impact on the privacy of the individual.

In response to the Tweede Kamer's observations the Commission would like to recall the recent judgement of the European Court of Justice of 17 October 2013, to which Tweede Kamer refers also in the Opinion. The ECJ clearly confirms that "Regulation (EC) No 2252/2004 does not imply any processing of fingerprints that would go beyond what is necessary in order to achieve the aim of protecting against the fraudulent use of passports." The Commission would like to emphasise that the introduction of biometrics in the passport was proposed in order to establish a reliable link between the document and its genuine holder in order to avoid identity fraud.

So far, the Commission is not aware of major problems or shortcomings in the system. There were some reports of enrolment problems at the beginning of the biometric passport issuing in the Netherlands but with Commission Decision of 4 August 2011 (C(2011) 5499 final) an enrolment guide was established for Member States which they have to follow in order to achieve the best result when capturing fingerprints of citizens.

*Ms Anouchka VAN MILTENBURG
President of the Tweede Kamer
Postbus 20018
NL – 2500 EA DEN HAAG*

Secondly, the Commission takes part in international fora such as the International Civil Aviation Organisation (ICAO), which sets out the standards for globally interoperable machine readable travel documents. ICAO recommends the issuance of biometric passports, including the facial image, optionally the fingerprints of the holder. In 2013, already 96 countries of the 191 members of ICAO implemented this recommended practice and issue e-passports. In its initial proposal, the Commission followed the ICAO recommendations but Member States wished to include the fingerprints as a mandatory feature.

ICAO further recommended enhanced security measures to protect the biometric data against unauthorised access. With the above-mentioned Commission Decision Supplementary Access Control was mandatorily introduced from 31 December 2014 in order to further protect the passport chip data and privacy of European citizens.

Member States' experience in setting up a Public Key Infrastructure clearly proves that the biometric data are so well protected that it is unmanageable for maliciously intended people to get access. Without appropriate secret keys, which are held by the Member States authorities, it is impossible to access the fingerprints in the passport.

As regards the benefits for the citizen being in possession of a biometric passport the Commission would like to note that citizens can use the biometric passport to pass more quickly through border controls. Last year, it was reported in the press that more than one million travellers crossed the border at Amsterdam Schiphol airport, using Automated Border Control Gates (ABC Gates). In Europe currently 13 Member States have ABC Gates in operation with a 15 million passengers throughput reported already for 2013. Without biometrics in passports, this facilitation of border control, while maintaining a high level of security, would be impossible.

The Commission would also like to observe that the risk for individual people to be stopped at border control for scrutiny has always existed, when passports had no biometric features. In case of doubt, the border guard has to refer a person to secondary inspection. The biometric identifiers have an important advantage for the citizen: with the successful checking of the fingerprints, the person can be very quickly identified and pass border controls whereas in the past lengthy checks had to be carried out. For the Commission, this proves the effectiveness of e-passports within the EU.

The Tweede Kamer refers in the Opinion to the small number of fraud cases detected in the Netherlands compared to the population. Consequently, more bona-fide travellers with a biometric passport can pass the border more quickly and without actually facing border guards who in turn can concentrate on detecting the few more problematic cases. Considering the above, the Commission currently has no intention to proceed with a review of the Regulation.

Lastly, referring to the Tweede Kamer's questions related to the ten year validity period of the passport and the establishment of national central data bases for biometric features the Commission would like to point out that these questions do not fall under the scope of the Regulation and are to be regulated under the legislative power of individual Member States under full respect of privacy legislation.

The Commission hopes that these clarifications address the issues raised by the Tweede Kamer and looks forward to continuing our political dialogue in the future.

Yours faithfully,

*Michel BARNIER
Member of the Commission*