



**2015/0306(COD)**

4.4.2016

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## **DRAFT REPORT**

on the proposal for a regulation of the European Parliament and of the Council  
on a European travel document for the return of illegally staying third-country  
nationals

(COM(2015)0668 – C8-0405/2015 – 2015/0306(COD))

Committee on Civil Liberties, Justice and Home Affairs

Rapporteur: Jussi Halla-aho

### ***Symbols for procedures***

- \* Consultation procedure
- \*\*\* Consent procedure
- \*\*\*I Ordinary legislative procedure (first reading)
- \*\*\*II Ordinary legislative procedure (second reading)
- \*\*\*III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

### ***Amendments to a draft act***

#### **Amendments by Parliament set out in two columns**

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

#### **Amendments by Parliament in the form of a consolidated text**

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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## DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a regulation of the European Parliament and of the Council on a European travel document for the return of illegally staying third-country nationals (COM(2015)0668 – C8-0405/2015 – 2015/0306(COD))**

**(Ordinary legislative procedure: first reading)**

*The European Parliament,*

- having regard to the Commission proposal to Parliament and the Council (COM(2015)0668),
  - having regard to Article 294(2) and Article 79(2)(c) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0405/2015),
  - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
  - having regard to Rule 59 of its Rules of Procedure,
  - having regard to the report of the Committee on Civil Liberties, Justice and Home Affairs (A8-0000/2016),
1. Adopts its position at first reading hereinafter set out;
  2. Calls on the Commission to refer the matter to Parliament again if it intends to amend its proposal substantially or replace it with another text;
  3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

### **Amendment 1**

#### **Proposal for a regulation**

##### **Recital 1**

*Text proposed by the Commission*

(1) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in full respect of fundamental rights, in particular of the principle of *non-refoulement*, and in compliance with the provisions of Directive 2008/115/EC<sup>9</sup>, is an essential part of the comprehensive efforts to ensure

*Amendment*

(1) The return of third-country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member States, in full respect of fundamental rights, in particular of the principle of *non-refoulement*, and in compliance with the provisions of Directive 2008/115/EC **of the European Parliament and of the Council**<sup>1</sup>, is an

the credibility and proper functioning of the Union migration policies and to reduce and deter irregular migration.

essential part of the comprehensive efforts to ensure the credibility, **public confidence** and proper functioning of the Union migration policies and to reduce and deter irregular migration.

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<sup>9</sup>. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

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<sup>1</sup>. Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98).

Or. en

## Amendment 2

### Proposal for a regulation

#### Recital 2

##### *Text proposed by the Commission*

(2) National authorities of the Member States experience difficulties in **returning** illegally staying third-country nationals **who possess no valid travel documents**.

##### *Amendment*

(2) ***Due to a lack of harmonisation of travel documents issued in the Union, there is a low recognition rate by third countries of travel documents issued by Member States for third-country nationals who possess no valid travel document. This has been identified as one of the reasons why*** Member States experience difficulties in ***enforcing the return of*** illegally staying third-country nationals.

Or. en

## Amendment 3

### Proposal for a regulation

#### Recital 4

*Text proposed by the Commission*

(4) The current standard travel document for the **expulsion** of third-country nationals, established by Council Recommendation of 30 November 1994<sup>1</sup>, is not widely accepted by authorities of third countries, for reasons including its inadequate security standards.

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<sup>1</sup> Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third-country nationals (OJ C 274, 19.6.1996, p. 18).

*Amendment*

(4) The current standard travel document for the **repatriation** of third-country nationals, established by Council Recommendation of 30 November 1994<sup>1</sup>, is not widely accepted or enforced by authorities of third countries, for reasons including its inadequate security standards, **the differing formats and information requirements of each individual Member State and the number of languages in which the forms are provided.**

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<sup>1</sup> Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third-country nationals (OJ C 274, 19.6.1996, p. 18).

Or. en

#### **Amendment 4**

##### **Proposal for a regulation Recital 5**

*Text proposed by the Commission*

(5) It is therefore necessary to promote the acceptance by third countries of an improved European return *laissez-passer* as the **reference** document for return purposes.

*Amendment*

(5) It is therefore necessary to promote the acceptance by third countries of an improved **and harmonised** European return *laissez-passer* as the document for return purposes.

Or. en

#### **Amendment 5**

##### **Proposal for a regulation Recital 6 a (new)**

***(6a) The readmission of own nationals is an obligation under international customary law with which all States are required to comply. In relation to African, Caribbean and Pacific (ACP) countries, this obligation is further stipulated in Article 13 of the Partnership Agreement between the members of the African, Caribbean and Pacific Group of States of the one part, and the European Community and its Member States, of the other part, signed in Cotonou on 23 June 2000<sup>1a</sup> that commits all participating States to readmit their own nationals without further formalities.***

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<sup>1a</sup> OJ L 317, 15.12.2000, p. 3.

Or. en

## **Amendment 6**

### **Proposal for a regulation**

#### **Recital 7**

*Text proposed by the Commission*

(7) Readmission agreements concluded by the Union with third countries should seek the recognition of the European travel document for return. Member States should seek the recognition of the European travel document for return in bilateral agreements and other arrangements as well as in the context of return-related co-operation with third countries not covered by formal agreements.

*Amendment*

(7) Readmission agreements concluded by the Union with third countries should seek the ***highest possible rate of*** recognition of the European travel document for return. Member States should seek the recognition of the European travel document for return in bilateral agreements and other arrangements as well as in the context of return-related co-operation with third countries not covered by formal agreements.



## Amendment 7

### Proposal for a regulation Recital 9 a (new)

*Text proposed by the Commission*

*Amendment*

***(9a) Member States should systematically issue return decisions, take all necessary steps to enforce them and provide adequate resources, including funding and staff, necessary for identifying and returning illegally staying third-country nationals and issue the necessary travel documents. All measures must be taken to ensure irregular migrants' effective return in full respect of Union law.***

Or. en

## Amendment 8

### Proposal for a regulation Recital 9 b (new)

*Text proposed by the Commission*

*Amendment*

***(9b) Notes the need to build synergies between the European Integrated Approach on Return towards Third Countries (EURINT), the European Reintegration Instrument Network (ERIN) and the European Return Liaison Officers network (EURLO), as well as European Migration Liaison Officers (EMLOs), Immigration Liaison Officers (ILOs) and FRONTEX Liaison officers, in order to work in a mutually supportive way by avoiding duplication, and to enhance the effectiveness of the Union return system.***

## Amendment 9

### Proposal for a regulation

#### Recital 9 c (new)

*Text proposed by the Commission*

*Amendment*

***(9c) A common approach to the format and recognition of travel documents for returns is intended to increase cooperation on return and readmission overall and Member States, the Commission and the European External Action Service should prioritise readmission in all relevant contacts at political level with the countries of origin of irregular migrants to ensure that a consistent message is received by those countries. Such cooperation with countries of origin should also focus on the identification of irregular migrants and the issuing of travel documents. In this context, the cooperation with the diplomatic representations of the countries of origin is crucial and should be prioritised.***

Or. en

## Amendment 10

### Proposal for a regulation

#### Recital 12

*Text proposed by the Commission*

*Amendment*

(12) In order to amend or supplement certain non-essential elements of the model for a European Travel document for return, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should

(12) In order to amend or supplement certain non-essential elements of the model for a European Travel document for return, ***and to facilitate the assistance provided by FRONTEX and the European Asylum Support Office to Member States for the***

be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level.

*purpose of enforcing Union travel documents, including with regard to identifying individuals, issuing travel documents and enhancing consular cooperation with third countries*, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union (TFEU) should be delegated to the Commission. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, **and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of [date]. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.**

Or. en

## Amendment 11

### Proposal for a regulation Recital 14

#### *Text proposed by the Commission*

(14) With regard to the processing of personal data within the framework of this Regulation, competent authorities **shall** carry out their tasks for the purposes of this Regulation in accordance with the national laws, regulations or administrative provisions transposing Directive 95/46/EC.

#### *Amendment*

(14) With regard to the processing of personal data within the framework of this Regulation, competent authorities **should** carry out their tasks for the purposes of this Regulation in accordance with the national laws, regulations or administrative provisions transposing Directive 95/46/EC **of the European Parliament and of the Council<sup>1a</sup>; and with the specific data protection requirements laid down in this Regulation.**

<sup>12</sup> 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 (OJ L 281, 23.11.1995, p. 31).

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<sup>1a</sup> 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 (OJ L 281, 23.11.1995, p. 31).

Or. en

## **Amendment 12**

### **Proposal for a regulation Article 1**

#### *Text proposed by the Commission*

This Regulation establishes the format and the technical specifications of a European travel document for the return of third-country nationals.

#### *Amendment*

This Regulation establishes the **common** format and the technical specifications of a European travel document for the return of third-country nationals.

Or. en

## **Amendment 13**

### **Proposal for a regulation Article 3 – paragraph 1 – point b**

#### *Text proposed by the Commission*

(b) a photograph;

#### *Amendment*

(b) a **passport** photograph ;

Or. en

## Amendment 14

### Proposal for a regulation

#### Article 3 – paragraph 2

*Text proposed by the Commission*

2. The European travel document for return shall be established in the official language or languages of the Member State that issues the return decision and, **where appropriate, it** shall be translated into English and French.

*Amendment*

2. The European travel document for return shall be established in the official language or languages of the Member State that issues the return decision and shall be translated into English and French **and, where possible, into an official language of the third country of the person being returned.**

Or. en

## Amendment 15

### Proposal for a regulation

#### Article 3 – paragraph 4

*Text proposed by the Commission*

4. Where necessary, additional documents **necessary for the return of third-country nationals may** be attached to the European travel document for return.

*Amendment*

4. Where necessary, **available, and relevant** additional documents, **particularly in regard to ensuring cooperation with third countries in the area of security and the fight against human trafficking, shall** be attached to the European travel document for return.

Or. en

## Amendment 16

### Proposal for a regulation

#### Article 5 a (new)

*Text proposed by the Commission*

*Amendment*

**Article 5a**

***Readmission agreements***

***1. The provisions of this Regulation and the acceptance of the European travel document for return shall be a pre-condition of cooperation or readmission agreements with third countries.***

***2. Visas under Regulation (EC) No 810/2009 of the European Parliament and of the Council<sup>1a</sup> shall be granted only after assessing the cooperation of the applicant's country of origin with regard to readmission and guaranteeing the acceptance of the European travel document for return.***

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***<sup>1a</sup> Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).***

Or. en

**Amendment 17**

**Proposal for a regulation  
Article 6 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 6a**

***Review***

***1. The Commission shall review this Regulation by ... [12 months after entry into force of this Regulation] in order to assess, in detail, how it has been implemented and whether it is necessary to amend any of the features of the European travel document for return.***

*2. For the purposes of the Commission's review, Member States shall provide the Commission with statistics with regard to the number of European travel documents for return issued, the recognition rate of each third country, and the number of persons who have had more than one travel document for return purposes issued to them.*

*3. The results of the Commission's review shall be presented to the European Parliament and communicated to the Council.*

Or. en

## **Amendment 18**

### **Proposal for a regulation Article 6 b (new)**

*Text proposed by the Commission*

*Amendment*

#### *Article 6b*

##### *Interaction with the EURODAC and Schengen Information System*

*Member States shall input copies of all European travel documents for return that they have issued in Eurodac and the Schengen Information System as part of increasing information sharing in the area of return decisions and in order to facilitate mutual recognition and enforcement of return decisions in the area of asylum.*

Or. en

## **Amendment 19**

### **Proposal for a regulation Article 8**

*Text proposed by the Commission*

*Amendment*

This Regulation shall enter into force on the [...] day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall enter into force on the [*twentieth*] day following that of its publication in the *Official Journal of the European Union*.

Or. en

## **EXPLANATORY STATEMENT**

The return of those who do not qualify for international protection within the EU must be a priority for the European Union. Improving the rate of returns for irregular migrants is vital for the integrity of the EU's asylum system, for cooperation between EU Member States and third countries, and for maintaining the confidence of EU citizens. In order to stabilise the current migrant crisis, alleviate pressure upon Member States and EU Agencies, and increase capacity and resources within the EU, a long term solution needs to be provided.

The EU cannot continue to be content with its current return rate amongst failed categories of asylum seekers. The existing standard EU travel document requires significant overhaul in its format and its implementation in order to increase its recognition by third countries and be effective. By harmonizing the format of the travel document, Member States will reduce bureaucracy, variation, costs, and waiting periods, and hopefully increase recognition of the document by third countries.

To date, many third countries are not willing to accept returns papers that are issued by EU Member States because they are poor quality documents. The EU needs to ensure higher technical and security standards, in particular as regards safeguards against counterfeiting and falsification. The Rapporteur therefore proposes setting a technical standard for the photograph provided, enhancing the overall security features of the travel document, and providing translation of the travel documents in both EU languages and the language of the relevant third countries in order to speed up the process.

The Rapporteur also suggests a regular and thorough review and analysis of the workings of the travel document; including the recognition rate of the travel document by each third country, as well as examining any potential improvements which need to be made. Such a process needs to be done regularly given the EU's current migrant crisis. Instruments in the area of asylum and migration cannot be allowed to fail for years before their shortcomings are addressed.

Ensuring the exchange of information between Member States with regard to the issuing of travel documents and individuals listed as illegally staying third country nationals who possess no valid travel documents is essential in order to increase mutual recognition of asylum decisions across the EU, and avoid secondary movement of failed asylum seekers.



Therefore, the Rapporteur suggests that copies of travel documents issued by Member States are imputed into the EURODAC system and the Schengen information system.

The rapporteur notes the need to promote the travel document through the work of the EU's other agencies, the activities of the External Action Service, and any future developments of the FRONTEX and EASO Agencies. The Rapporteur stresses that in order for the travel document to be widely recognised and more effective, it is necessary for this document to be part of a determined pursuit by the EU to gain stronger and more effective readmission agreements with third countries. The recognition of the document should be a requirement of any future EU readmission and cooperation agreement.