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Feedback by Digitalcourage to public consultation by the European Commission on digitalising travel documents

The public consultation by the European Commission (EC) on digitalisation of travel documents / digital travel credentials (DTC) raises serious concerns about the security of travellers and their personal data. While the EC claims that digitalisation of travel documents would help facilitating the exercise of the right to free movement, policy options considered by DG HOME would infringe that same right.

Any implementation of digital travel credentials can only be considered if three conditions can be met:

1. Travellers must not be forced to use digital travel credentials. The possibility of using physical travel documents must be guaranteed permanently and not just for the “near future”, as the European Commission is proposing.¹
2. Travellers who don't use digital travel credentials must not be discriminated against. This condition includes that border controls for travellers with physical documents must be equally accessible and sufficiently staffed to enable travel checks in a reasonable amount of time.
3. Travellers who don't use digital travel credentials must not, under any circumstances, be affected by the border control technologies required for checking digital travel credentials. Policy options “where all travellers are monitored and their biometric data are processed”, as the European Commission is considering,² must be ruled out.

¹ Ref. Ares(2022)6214919 – 08/09/2022.

² *ibid.*

1. Background

Digitalcourage is a non-profit organisation based in Bielefeld, Germany. Since 1987 we advocate for fundamental rights, privacy and protecting personal data. In accordance with this mission we are currently contesting a European regulation that made it mandatory across the EU to have fingerprints stored on ID cards. We maintain that this is a disproportionate infringement on our civil rights, treats every EU citizen like a potential criminal and endangers the security of our biometric data. These problems may be further be aggravated by the initiative for digitalisation of travel documents.

Digitalcourage works for a liveable world in the digital age. We embrace the use of digital technologies to improve people's lives. Consequently, we intervene where digitalisation is done wrong and puts citizens' rights at risk. We do not want our democracy to be "datafied" and sold out. We reject placing all citizens under suspicion as potential terrorists. We stand for a living democracy.

The European Commission's Directorate-General for Migration and Home Affairs (DG HOME) has launched an initiative for digitalisation of travel documents. After the public consultation, these could result in a proposal for a regulation in the third quarter of 2023.³ In its „Call for evidence for an impact assessment“ the European Commission has outlined its considerations for this initiative and policy options.⁴

Because of this, **we are alarmed by the policy option 6** listed in the "Call for evidence for an impact assessment", which provides that:

"EU regulation would require Member States to implement the ICAO DTC standard and introduce mandatory travel facilitation measures in a way that allows users to cross borders without interacting with traditional e-gates or manual booths. These measures would exploit one-to-many biometric matching on the move, where all travellers are monitored and their biometric data are processed. These measures would rely on large-scale biometric matching and would enable travellers to pass borders without stopping for being controlled at a border check."

This would subject every person travelling and everybody visiting or working at travel hotspots to biometric mass surveillance, and must therefore be rejected.

Further, it is our view that the "Call for evidence for an impact assessment" reveals a problematic conception of the relationship between the state and its citizens. The European Commission states:

"Incorporating biometrics solutions can give screening authorities greater confidence in the traveller's identity, eventually reducing risk associated with each traveller ..."

To think of citizens foremost as suspects and as a security risk that needs to be kept in check by the state is not compatible with the basic values of a democratic society. This twisted logic of "insecurity politics" leads to policies that are misaligned. With this proposal, the EU Commission is trying to solve the problem of time-consuming border controls through supposedly more efficient procedures. However, the EU Commission is not asking why border controls are time-consuming in the first place. The right to freedom of movement in the EU is already being

³ <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/13514-Travel-digitalising-travel-documents-to-make-travelling-easier>.

⁴ Ref. Ares(2022)6214919 – 08/09/2022.

restricted by an extensive “security theatre” in the shape of invasive border controls. Instead of jeopardising the security of travellers and their (biometric) data through digitalised travel documents, this problem should be addressed by reducing unnecessary and disproportionate restrictions on the freedom of movement in current border control schemes. Potentially reducing the waiting time at airports created by prior infringements on the right of free movement is not a valid reason for further infringements on citizens’ rights.

The more frequently biometric data is collected, stored, forwarded or generally used, the higher is the probability of accidental or malicious data leaks. We remind the European Commission that there is a very specific and problematic aspect to biometric features, as they enable lifelong control: People can change their password, name and place of residence if necessary, for example to protect themselves from persecution or threats. Biometric data, however, can never be changed. Especially the envisaged storage of this information on peoples’ smartphones raises major security problems.

2. Recommendations

We call on the EU Commission to ensure that digital travel credentials and any related procedures can only be introduced as a **voluntary option** for citizens and travellers visiting the European Union. **The option to use physical travel documents** instead of digital travel credentials **must remain guaranteed permanently. Travellers with physical travel documents must not be discriminated against and must not be subjected to biometric surveillance or other border control technologies required for digital travel credentials.** To facilitate the exercise of the right to free movement within the EU, the European Commission should instead offer proposals on how to reduce unnecessary and disproportionate infringements on the right to free movement and other rights in the current border control schemes.

Kind regards,

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on behalf of Digitalcourage e.V.