

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation Rec(2005)7 of the Committee of Ministers to member states concerning identity and travel documents and the fight against terrorism

(Adopted by the Committee of Ministers on 30 March 2005, at the 921st meeting of the Ministers' Deputies)

The Committee of Ministers, under the terms of Article 15.b of the Statute of the Council of Europe,

Considering that the aim of the Council of Europe is to achieve greater unity between its members;

Bearing in mind Resolution No.1 on combating international terrorism approved at the 24th Conference of European Ministers of Justice (Moscow, 4-5 October 2001) and Resolution No.1 on combating terrorism approved at the 25th Conference of European Ministers of Justice, (Sofia, 9-10 October 2003);

Considering that the Final Report of the Multidisciplinary Group on International Action against Terrorism (GMT) and the subsequent decisions of the Committee of Ministers recognise the field of identity and identity and travel documents as a priority area for the Council of Europe's legal action against terrorism;

Bearing in mind the Final Activity Report of the Group of Specialists on Identity and Terrorism (CJ-S-IT) of 23 April 2004 and the opinion of the Committee of Experts on Terrorism (CODEXTER) thereon;

Taking into account the Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data (ETS No. 108) and its Additional Protocol, regarding supervisory authorities and transborder data flows (ETS No. 181);

Taking into account the European Convention on Nationality (ETS No. 166);

Bearing in mind the provisions of the European Convention on Human Rights, in particular Articles 8, 13, 14 and 15, and the relevant case-law of the European Court of Human Rights;

Mindful of the Guidelines on human rights and the fight against terrorism, adopted by the Committee of Ministers on 11 July 2002;

Bearing in mind the work of the International Civil Aviation Organisation (ICAO) in the field of standard-setting for travel documents, and in particular the ICAO standards for machine-readable travel documents and current developments concerning the introduction of globally interoperable biometrics;

Bearing in mind the work of the International Commission on Civil Status (ICCS) and its Convention No. 26 on the international exchange of information relating to civil status (12 September 1997);

Acknowledging that the overwhelming majority of persons applying for or using identity and travel documents do so for lawful purposes;

Considering, however, that proper, rapid and reliable identification of individuals is of the utmost importance in order to fight terrorism and facilitate secure international travel, in particular as regards the issuing of identity and travel documents,

Recommends that governments of member states:

- i. be guided, when formulating their internal legislation and reviewing their policy and practice relating to identity and travel documents, by the principles appended to this Recommendation, in order to combat fraud and other forms of abuse in the context of the fight against terrorism;
- ii. ensure that these principles are disseminated as broadly as possible to their competent authorities and in particular to those involved in the issuing and control of identity and travel documents.

I. Definitions

For the purposes of this Recommendation:

- "identity" means a unique combination of characteristics relating to every natural person – such as last name, first name, date and place of birth, gender and physical characteristics – that, in accordance with national law, or international law where appropriate, permits his or her identification by the competent authorities;
- "identity document" means any document that is issued by the competent authorities according to national law in order to confirm the identity of the document holder;
- "travel document" means any official document issued by a state or competent organisation that is used by the document holder for international travel (for example passport, visa or identity document) and contains mandatory visual (eye-readable) data and, generally, an image of the holder.

II. Security of identity and travel documents

1. Member states should take all legislative and other appropriate measures, including technical and organisational measures, to strengthen the physical security of identity and travel documents and the integrity of application and issuing procedures, especially with regard to verifying the identity of applicants.
2. Member states should take all appropriate measures to ensure that records of issued identity and travel documents, including all relevant personal data, and biometric data where appropriate, are secure and accessible for verification by their competent authorities.
3. Member states, if they do not already, should comply with ICAO standard 9303 on machine-readable travel documents, for all documents confirming identity and nationality that are used for crossing borders by all categories of travellers, including sea-farers. In particular, member states are encouraged to develop biometric standards in their travel documents to the highest possible level, in line with the globally interoperable standards developed by ICAO.
4. Member states should take all appropriate measures to ensure that the loss or theft of identity and travel documents is reported as soon as possible to the competent authorities by their rightful holders. Member states should refrain from issuing replacement documents unless this procedure is followed.
5. Member states should take all appropriate measures to ensure that identity and travel documents reported lost or stolen are automatically considered null and void. If such documents are recovered after new documents have been issued, member states should ensure that the lost or stolen documents are not reactivated.
6. Member states are encouraged to consider appropriate measures covering the use of identity and travel documents, including measures to prevent unauthorised copying of these documents, and to issue guidance on the rights and responsibilities of private and public bodies, as well as those of the holder of the document.
7. Member states should take all appropriate measures to ensure that information is collected on the issuance and serial numbers of lost or stolen identity and travel documents, whether issued or blank.

III. Proof of identity

8. Member states should take all appropriate measures to promote the creation and development of systems that allow for rapid and reliable identity checks to be carried out with reference to civil-status records and, where appropriate, nationality records and population registers, in accordance with national legislation and international instruments, in particular the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data (ETS No. 108). Such systems should, in particular, include provisions enabling cross-referencing between birth and death records and marriage registers, as appropriate.

9. Member states should take all appropriate measures to ensure that competent authorities, when presented with a birth certificate or another document in connection with an application for an identity or travel document, carry out checks using all relevant records and registers (of civil status and, where appropriate, population and nationality) and instigate other enquiries, where appropriate, in accordance with national legislation and international instruments.

IV. Registration of births and birth certificates

10. Member states should take all appropriate measures in order to avoid abuse in the framework of the registration of births and the issuing of birth certificates, as they are key documents that are necessary to obtain identity and travel documents. In particular, they should:

- a. ensure that births are registered in civil-status records as soon after birth as possible;
- b. take all appropriate measures to ensure that information provided to registrars is checked as far as possible, for example with medical personnel supervising the birth;
- c. keep the conditions and procedures for issuing birth certificates under review;
- d. if appropriate, consider the introduction of a national personal identification number allocated at the time of registration of birth, in accordance with national legislation and international instruments. If member states decide to use a national personal identification number, or any other unique identifier of general application, they should determine the conditions under which this number may be processed, in accordance with the Convention for the Protection of Individuals with regard to the Automatic Processing of Personal Data.

V. International cooperation

11. Member states are encouraged to cooperate with other member states regarding the identity of applicants and, where appropriate, with international law-enforcement bodies such as, Europol and Interpol, with regard to the rapid dissemination of information on trends and developments in the area of identity and travel documents. In particular, member states are encouraged to make information concerning lost or stolen identity and travel documents, whether issued or blank, available to other member states, as well as to Europol and Interpol.

12. Member states should try, as far as possible, to adopt or develop systems of updating all relevant records and registers (civil-status and, if appropriate, population and nationality) in order to be able to integrate events affecting their nationals or residents that occur in other countries, concerning nationality, marriage, divorce, death and change of name. To this end, they may consider the possibility of:

- adopting or developing effective systems of registration of modifications resulting from events occurring abroad;
- adopting or developing effective systems to notify those member states holding a person's civil-status records of events concerning that person which have occurred in another member state;
- ratify the ICCS Convention No. 26 on the international exchange of information relating to civil status (signed at Neuchâtel on 12 September 1997).

13. Member states are invited to consider ratifying the European Convention on Nationality (ETS No. 166). Having due regard to this instrument and the problems that might arise in the context of terrorism, they are encouraged to exchange information in the area of nationality in order to deal with matters of common interest and thereby contribute to the prevention of the misuse of nationality laws.