



Brussels, 19 September 2017
(OR. en)

12306/17

Interinstitutional File:
2017/0234 (NLE)

JAI 800
ASIM 102

'I/A' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
No. Cion doc.:	12163/17 JAI 782 ASIM 100 + ADD 1
Subject:	Proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees – Adoption

1. On 18 September, the Commission submitted a proposal for a Council Decision on the position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees¹.
2. Following a silence procedure, the text of the above proposal, as set out in the Annex to this proposal, was supported by a large majority of delegations.
3. The Permanent Representative Committee and the Council are invited to confirm the agreement reached and to approve the EU position to be adopted, on behalf of the European Union, in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees as its session on October 2017.

¹ Doc. 12163/17 JAI 782 ASIM 100 + ADD 1

4. The Commission is invited to report at the earliest opportunity to the Permanent Representatives Committee on the outcome of the negotiations held in the framework of the above session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees.
-

2017/0234 (NLE)

Proposal for a

COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union, in the Executive Committee
of the Programme of the United Nations High Commissioner for Refugees**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 78(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The Resolution on the Establishment of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees was adopted by the United Nations Economic and Social Council by Resolution of 30 April 1958.
- (2) Pursuant to the Resolution, the Executive Committee of the Programme of the United Nations High Commissioner for Refugees acts as an advisory body as regards norms and policy with respect to international refugee protection.
- (3) The Executive Committee of the Programme of the United Nations High Commission for Refugees, during its 68th session on 2-6 October 2017, is to adopt a conclusion on machine-readable travel documents for refugees and stateless persons.

- (4) It is appropriate to establish the position to be adopted on behalf of the Union in the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, as the envisaged conclusion is likely to have legal effects and are, in any event, capable of decisively influencing the content of Union law, namely of Council Regulation No 2252/2004 of 13 December 2004², Directive 2011/95/EC of the European Parliament and of the Council of 13 December 2011³, and the proposed Regulation of the European Parliament and of the Council of 13 July 2016 that is to replace Directive 2011/95/EC⁴.
- (5) The Union should support the adoption of the envisaged conclusion on machine-readable travel documents for refugees and stateless persons.
- (6) It is desirable that travel documents issued by states to refugees and stateless persons lawfully staying within their territory comply with security features in line with international standards, namely ICAO standard 3.12 and Document 9303 on machine readable travel documents. This renders the travel documents more secure by contributes to protecting them against forgery and fraudulent use.
- (7) The position of the Union is to be expressed by the Member States of the Union that are members of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, acting jointly.

² Council Regulation No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States, OJ L 385, 29.12.2004, p. 1-6, last amended by Regulation (EC) No 444/2009 of the European Parliament and of the Council of 28 May 2009, OJ L 142, 6.6.2009, p. 1-4.

³ Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast), OJ L 337, 20.12.2011, p. 9-26.

⁴ Proposal for a Regulation of the European Parliament and of the Council on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection and for the content of the protection granted and amending Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents, COM(2016) 466 final.

- (8) In accordance with Articles 1 and 2 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Article 4 of that Protocol, those Member States are not taking part in the adoption of this Decision and are not bound by it or subject to its application.
- (9) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted, on behalf of the Union, in the 68th session of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees with regard to the adoption of the conclusion on machine-readable travel documents for refugees and stateless persons is set out in the Annex.

Article 2

The position referred to in Article 1 shall be expressed by the Member States of the Union that are members of the Executive Committee of the Programme of the United Nations High Commissioner for Refugees, acting jointly.

Article 3

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President

ANNEX

to the

Proposal for a COUNCIL DECISION

**on the position to be adopted, on behalf of the European Union, in the Executive Committee
of the Programme of the United Nations High Commissioner for Refugees**

The adoption of the following Executive Committee conclusion on machine-readable travel documents for refugees and stateless persons is supported.

'Executive Committee conclusion

on machine-readable travel documents for refugees and stateless persons

PP1. *Recalling* the 1951 Convention Relating to the Status of Refugees (“1951 Convention”) and the 1954 Convention Relating to the Status of Stateless Persons (“1954 Convention”), in particular article 28 and the Schedules and Annexes to these Conventions;

PP1*bis* *Emphasizing* that the protection of refugees is primarily the responsibility of all States and *strongly emphasizing*, in this context, the importance of active international solidarity and burden- and responsibility-sharing;

PP2. *Recalling* further previous Executive Committee conclusions on travel documents, in particular Conclusion No. 13 (1978), Conclusion No. 18 (1980) para (i) and Conclusion No. 49 (1987), as well as Conclusion No. 112 (2016) on international cooperation from a protection and solutions perspective;

PP3 *Recognising* the importance of early and effective registration and documentation of refugees, consistent with legal frameworks, taking into account the specificity of each situation;

PP4. *Acknowledging* with appreciation the contributions of host states in receiving and providing international protection to large numbers of refugees, including in protracted situations and with limited resources;

PP5. *Recognizing* the importance of travel documents for refugees and stateless persons to facilitate their travel and the importance of granting visas to holders of these travel documents, where required for the implementation of durable solutions for refugees and complementary pathways to protection and solutions and other travel for refugees and stateless persons, thereby reducing the risk of irregular movement which may expose refugees and stateless persons to exploitation, abuse, violence and human trafficking;

PP6. *Noting* that international standards and specifications for travel documents have undergone significant developments since the 1951 and 1954 Conventions were drafted, and that the effective realization of the right set out in article 28 of these Conventions can best be achieved if refugees and stateless persons have access to travel documents in line with international standards adopted by the International Civil Aviation Organization (ICAO) in Annex 9 (“Facilitation”) to the 1944 Convention on International Civil Aviation (“Chicago Convention”);

PP7. *Noting* Amendment 25 of Annex 9 to the 1944 Chicago Convention adopted by the ICAO Council in June 2015, which requires that travel documents for refugees and stateless persons (“Convention Travel Documents”) are machine-readable in accordance with the specifications of Doc 9303⁵;

PP8. *Expressing appreciation* for the revised “Guide for Issuing Machine-Readable Convention Travel Documents for Refugees and Stateless Persons” jointly issued by UNHCR and ICAO in February 2017, which incorporates guidance on the implementation of ICAO standard 3.12;

⁵ Note: With two exceptions (the Holy See and Tuvalu), all States party to the 1951 Convention and/or its Protocol, and 1954 Convention are also States party to the Chicago Convention.

PP8bis. *Noting* the practice of some States in issuing electronically enabled machine-readable Convention Travel Documents with biometric identification capacity;

PP9. *Noting also* the benefits associated with the increased security features provided by machine-readable travel documents, and the importance of secure travel documents in promoting effective traveler identification, reducing the risk of document fraud, alteration and counterfeit, and facilitating global and reciprocal acceptance of travel documents;

PP10. Emphasizing the importance of safeguards to protect personal data, such as those referred to in UNHCR's Policy on the Protection of Personal Data of Persons of Concern;

OP1. *Stresses* the need for all States and other relevant stakeholders to intensify their efforts to create, expand or facilitate access to appropriate durable solutions and complementary pathways for refugees and stateless persons, in particular in order to support those communities and countries hosting large refugee populations;

OP1bis. *Stresses* the need for countries of origin to contribute to conditions conducive to voluntary repatriation and return, including through addressing root causes and providing the necessary travel documents;

OP2. *Welcomes* the efforts of States that have already transitioned to machine-readable Convention Travel Documents in accordance with ICAO standard 3.12 and Doc 9303, and *calls upon* States parties to the 1951 and 1954 Conventions to consider taking all the necessary legislative, administrative and technical measures, taking into account their legal frameworks and national capacities, to introduce machine-readable Convention Travel Documents for refugees and stateless persons lawfully staying in their territory;

OP2bis. *Acknowledges* the good practices of States parties to the 1951 Convention and/or the 1967 Protocol, and/or to the 1954 Convention in relation to the issuance of machine-readable travel documents to refugees and stateless persons which enable them to access these travel documents, such as the simplification and facilitation of procedures and other administrative requirements, as well as of machine-readable travel document production systems, and *invites* States parties to exchange their good practices with interested States parties;

OP3. *Acknowledges* the good and voluntary practices of States not parties to the 1951 Convention and/or the 1967 Protocol, and/or to the 1954 Convention, in issuing machine-readable travel documents to refugees and stateless persons, and *invites* them to share these practices so as to encourage other States not parties to these Conventions to enable refugees and stateless persons to access appropriate travel documents in accordance with their legal frameworks and national capacities, including in the pursuit of durable solutions and complementary pathways;

OP7. *Commits to* further strengthening international solidarity and equitable responsibility- and burden-sharing, so as to ease the pressure on host States, including in facilitating the transition to and continued issuance of machine-readable travel documents to refugees and stateless persons, through the mobilization of financial resources and the provision of capacity-building and technical support, as appropriate, in collaboration with ICAO and UNHCR.'
