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COM(2015) 668 final

2015/0306 (COD)

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**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

#### • Reasons for and objectives of the proposal

In the *European Agenda on Migration*<sup>1</sup>, the Commission outlined a set of measures and initiatives that aim at providing structural solutions for better managing migration in all its aspects. The effective return of third country nationals who do not fulfil or no longer fulfil the conditions for entry, stay or residence in the Member State of the Union is an essential part of a comprehensive approach to ensure the proper functioning of the EU migration policies and for maintaining public trust in the Union migration system.

Increasing the rate of return of irregular migrants frees up capacities for welcoming those genuinely in need of protection, as underpinned by the Union's renewed efforts to protect those in need, including through relocation and resettlement. An effectively implemented and credible return policy goes hand in hand with a more open migration policy.

Yet, the EU system to return irregular migrants is not sufficiently effective. For instance, in 2014, only less than 40% of the total number of return decisions issued by Member States has been enforced. The Commission presented an *EU Action Plan on Return*<sup>2</sup> on 9 September 2015 in order to address the underlying reasons for this, including ways to increase the acceptance of the standard travel document for the expulsion of third-country nationals.

The lack of valid travel documents issued by the country of destination of the returnee is one of the main obstacles to successful return. At present, Member States may issue a substitute document<sup>3</sup> for those illegally staying third-country nationals who do not possess a valid travel document. Council Recommendation of 30 November 1994 establishes a standard travel document for the expulsion of third-country nationals<sup>4</sup>; however, its recognition by third countries is low, including because of its unsatisfactory security features and standards.

The need to address this issue was also underlined in the Council conclusions of 8 October 2015, in which Member States committed themselves to using the standard travel document more regularly in return operations. The European Council conclusions of 15 October 2015 further stressed this need.

The objective of this proposal is to establish a dedicated European travel document for the return of third-country nationals subject to a return decision, which provides for a uniform format and enhanced technical and security features to ensure a wider acceptance by third countries and the increased use of such document for the purpose of readmission. Its use should be promoted in EU and bilateral readmission or other agreements.

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<sup>1</sup> COM(2015) 240 final.

<sup>2</sup> COM(2015) 453 final.

<sup>3</sup> OJ C 274, 19.9.1996, p. 18.

<sup>4</sup> It should be noted that the term *laissez-passer* is commonly used to refer to the substitute travel document for return purposes; however, it is advised to avoid using this terms in this context because it may be confused with the *laissez-passer* issued by the European Union on the basis of Council Regulation (EU) No 1417/2013 of 17 December 2013 laying down the form of the *laissez-passer* issued by the European Union (OJ L 353, 28.12.2013, p. 26).

- **Consistency with existing policy provisions in the policy area**

This proposal follows up on the announcement of the *EU Action Plan on Return* to explore ways to increase the recognition of the EU *laissez-passer* by third countries. The European travel document for return should help achieve the objectives set in the *Agenda on Migration* to enhance the effectiveness of the EU system to return irregular migrants, notably of those who do not possess valid travel documents, and to increase the return rate, by ensuring that third countries fulfil their international obligation to take back their own nationals residing irregularly in Europe.

The proposal for a European travel document for return complies with and builds upon the provisions of the Return Directive, which set the common standards and procedures for returning illegally staying third-country nationals<sup>5</sup>.

## **2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY**

- **Legal basis**

Article 79(2)(c) TFEU empowers the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, to adopt measures in the area of illegal migration and unauthorised residence, including removal and repatriation of persons residing without authorisation. Hence, this Article is the suitable legal basis for establishing a European travel document for return.

- **Variable geometry**

With regard to variable geometry, this proposal follows a comparable regime to the Return Directive.

According to Article 4 of Protocol 22 on the position of Denmark annexed to the Treaties, Denmark shall decide, within a period of six months after the Council has decided on this Regulation, whether it will implement this proposal, which builds upon the Schengen *acquis*, in its national law.

With regard to the United Kingdom and Ireland, the Return Directive presents a hybrid character, as reflected in its recitals (26) and (27). It follows that both Protocol 19 on the Schengen *acquis* integrated in the framework of the European Union annexed to the Treaties, and Protocol 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice annexed to the Treaties, apply to this proposal. Pursuant to the latter, non-Schengen protocol, the United Kingdom and Ireland are not taking part in the adoption of this Regulation and are not bound by it or subject to its application; they may however notify to the Council that they wish to take part in this instrument.

On the basis of the respective agreements associating those countries with the implementation, application and development of the Schengen *acquis*, Iceland, Norway, Switzerland and Liechtenstein are to be bound by the Regulation proposed.

- **Subsidiarity**

The aim of this proposal, to establish a European travel document for the return of third-country nationals with enhanced security features in view of improving the recognition of this

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<sup>5</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).

document by third countries, cannot be sufficiently achieved by the Member States acting alone. This is because the coexistence of different national travel documents for return, which use different formats, standards and security features, would hamper the recognition of such travel documents in EU readmission agreements with third countries, and would impact negatively on the effective return and readmission of illegally staying third-country nationals. The aim of this proposal can, therefore, be better achieved by the European Union.

- **Proportionality**

Because the proposed Regulation harmonises the format and technical specifications of a European travel document for return and it does not amend or modify the common standards and rules on return established by the Return Directive, in accordance with the principle of proportionality as set out in Article 5 of the Treaty of the European Union, it does not go beyond what is necessary to achieve its objective.

Furthermore, since relevant and reliable security features have already been set for the uniform form for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form<sup>6</sup>, these features<sup>7</sup> are used for the European travel document for return. This avoids raising additional costs to Member States.

- **Choice of the instrument**

In order to establish uniform and harmonised features, ensure clarity of concepts and the direct applicability of the European travel document for return, it is appropriate to adopt this act in the form of a Regulation. Where necessary, the Commission should be empowered to adopt the necessary technical adaptations to the format of the European travel document by means of delegated acts.

### **3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS**

- **Ex-post evaluations/fitness checks of existing legislation**

Because of its non-binding nature, the Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third-country nationals was not subject to an evaluation. However, regular discussions with representatives of both Member States and third countries show that the existing instrument is inadequate to ensure the necessary security standards for carrying out return and readmission of illegally staying third-country nationals.

During regular discussions with Member States' experts, no issues have emerged in relation to the security features applicable to the uniform form for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up

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<sup>6</sup> Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (OJ L 53, 23.2.2002, p. 4).

<sup>7</sup> Commission Decision C(2010) 319 of 27 January 2010 replacing Commission Decision C(1996) 352 of 7 February 1996 laying down further technical specifications for the uniform format for visas (consolidated version of Decision C(1996) 352 and its amending Decisions C(2000) 4332 of 28 December 2000, C(2002) 2002 of 3 June 2002 and C(2009) 3769 of 20 May 2009) (Annex to this Decision classified EU Secret).

the form. It is therefore appropriate to use the same security features for the European travel document for return.

- **Stakeholder consultations**

Member States' experts were consulted in the context of return and readmission meetings and dialogues. They were also consulted via an ad hoc query of the European Migration Network (EMN) launched on 14 October 2011<sup>8</sup>. This concluded that the standard travel document for the expulsion of third-country nationals is rarely accepted by authorities by third countries, also because of its low security standards.

- **Collection and use of expertise**

The proposal builds on the views expressed by Member States' national experts, who were consulted during return and readmission meetings and dialogues, as well as through EMN queries, as explained above.

- **Impact assessment**

Due to the urgency of the action needed to improve the enforcement of return and increase the readmission rate, including of those illegally staying third-country nationals who do not have a valid travel document, no impact assessment was conducted.

- **Regulatory fitness and simplification**

The European travel document for return would reduce the administrative and bureaucratic burden on Member States' and third countries' administrations, including consular services, and it should contribute to reducing the length of the administrative procedures necessary for ensuring return and readmission of illegally staying third-country nationals.

Moreover, by applying to the European travel document for return the enhanced security features already applicable to the uniform form for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form, no additional administrative and financial costs would be raised to Member States.

- **Fundamental rights**

This proposal respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the protection in the event of removal, expulsion or extradition provided for in Article 19 of the Charter.

This proposal only defines the format and the technical specifications of the European travel document for the return of illegally staying third-country nationals, therefore it does not have significant consequences on the fundamental rights of third-country nationals.

#### **4. BUDGETARY IMPLICATIONS**

The proposal has no impact on the EU budget.

As the proposed European travel document for return is conceived for a single use only, and since it follows the technical specifications and security features already agreed upon in

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<sup>8</sup> The results of this ad hoc query are available at the following address: [http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european\\_migration\\_network/reports/docs/ad-hoc-queries/return/254\\_emn\\_ad-hoc\\_query\\_eu\\_laissez-passer\\_24august2010\\_wider\\_dissemination\\_en.pdf](http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/ad-hoc-queries/return/254_emn_ad-hoc_query_eu_laissez-passer_24august2010_wider_dissemination_en.pdf).

relation to the uniform forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State, the additional costs for Member States in producing and issuing such a document are negligible compared to the status quo.

## **5. OTHER ELEMENTS**

### **• Implementation plans and monitoring, evaluation and reporting arrangements**

The usefulness and effectiveness of the European travel document should be assessed in the context of the evaluation of the EU readmission agreements with third countries.

### **• Detailed explanation of the specific provisions of the proposal**

The proposal aims at harmonising the format and technical specifications of the European travel document for the return of illegally staying third-country nationals in order to ensure higher technical and security standards, in particular as regards safeguards against counterfeiting and falsification. It would facilitate recognition of this document by third countries for the purpose of return and readmission, notably in the context of readmission agreements or other arrangements with third countries, as well as in the context of return-related co-operation with third countries not covered by formal agreements.

The European travel document for return would help increase flexibility for the authorities of third countries and reduce the administrative burden on competent consular authorities. In this way, the costs for the European travel document for return would be limited to a minimum. By accelerating the administrative procedures for return, it would contribute to reducing the period during which returnees awaiting removal are kept in administrative detention.

Member States could consider issuing a European travel document for return when a document that is not valid or is no longer valid for travelling, or a certificate, or a copy of these documents, proves the nationality of the illegally staying third-country national subject to a return decision (e.g. expired passport, identity card, third-country *laissez passer*; military or maritime identity card, driving licence; nationality, birth, marriage or other civil registry certificate; identity information from the Visa Information System). Moreover, Member States could consider issuing the European travel document in the case in which a third-country national, whose nationality has been confirmed by the competent authorities of a third country, has not received a valid travel document within a reasonable deadline.

Article 1: it sets the subject matter of the proposal, to set the format and the technical specifications of the European travel document for return.

Article 2: it provides the definition of key terms.

Article 3: it sets the format, content, language and validity of the European travel document for return, and empowers the Commission to amend the format by means of delegated acts.

Article 4: it defines the technical specifications and security features of the European travel document for return, which are those set by Article 2 of Council Regulation (EC) No 333/2002 and are not public for security reasons.

Article 5: it sets the rules relating to the fees for issuing the European travel document for return, which shall be free of charge for the third-country national.

Article 6: it establishes the rules for the exercise of delegated powers by the Commission, in line with Article 290 TFEU.

Article 7: it establishes that the existing Council Recommendation on a standard travel document for the expulsion of third-country nationals is repealed and replaced.

Article 8: it sets the rules for the entry into force and the geographical application of the Regulation.

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**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 79(2)(c) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (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 the credibility and proper functioning of the Union migration policies and to reduce and deter irregular migration.
- (2) National authorities of the Member States experience difficulties in returning illegally staying third-country nationals who possess no valid travel documents.
- (3) Improving cooperation on return and readmission with the main countries of origin and transit of illegally staying third-country nationals is essential for increasing rates of return, which are unsatisfactory.
- (4) The current standard travel document for the expulsion of third-country nationals, established by Council Recommendation of 30 November 1994<sup>10</sup>, is not widely accepted by authorities of third countries, for reasons including its inadequate security standards.
- (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.
- (6) A more secure European travel document for the return of third-country nationals should be established to facilitate return and readmission of illegally staying third-country nationals. Its enhanced security features should facilitate its recognition by third countries. Such document should help carry out returns in the context of readmission agreements or other arrangements with third countries, as well as in the

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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).

<sup>10</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).



context of return-related co-operation with third countries not covered by formal agreements.

- (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.
- (8) The European travel document for return should help reduce the administrative and bureaucratic burden on Member States' and third countries' administrations, including consular services, and it should contribute to reducing the length of the administrative procedures necessary for ensuring return and readmission of illegally staying third-country nationals.
- (9) This Regulation should only harmonise the format and technical specifications of a European travel document for return and should not harmonise rules on the issuing of such document.
- (10) The circumstances in which Member States should consider issuing a European travel document for return include cases in which a document that is not valid or is no longer valid for travelling, a civil registry certificate, another official document, or a copy thereof, proves the nationality of the illegally staying third-country national subject to a return decision. Examples of such documents are expired passport, identity card or third-country *laissez passer*; military or maritime identity card, driving licence; nationality, birth, marriage certificates; extract from the Visa Information System. Member States could also consider issuing such document when the third-country national, whose nationality has been confirmed by the competent authorities of a third country, has not received a valid travel document within a reasonable deadline.
- (11) The content and technical specifications of the European travel document for return should be harmonised in order to ensure high technical and security standards, in particular as regards safeguards against counterfeiting and falsification. The document should bear recognisable harmonised security features. High technical and security standards already exist and are set according to Article 2 of Council Regulation (EC) No 333/2002<sup>11</sup>, which should therefore be applied to the European travel document for return.
- (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 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.
- (13) The Commission, when preparing and drawing-up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and Council.
- (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

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<sup>11</sup> Council Regulation (EC) No 333/2002 of 18 February 2002 on a uniform format for forms for affixing the visa issued by Member States to persons holding travel documents not recognised by the Member State drawing up the form (OJ L 53, 23.2.2002, p. 4).

Regulation in accordance with the national laws, regulations or administrative provisions transposing Directive 95/46/EC<sup>12</sup>.

- (15) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark annexed to the Treaty on the European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Regulation and is not bound by or subject to its application. Given that this Regulation builds – to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006 of the European Parliament and of the Council<sup>13</sup> – upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (16) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006, this Regulation constitutes a development of provisions of the Schengen *acquis* in which the United Kingdom does not take part, in accordance with Council Decision 2000/365/EC<sup>14</sup>; the United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. Moreover, in accordance with Articles 1 and 2 of the 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 the European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Articles 3 and 4 of that Protocol, the United Kingdom is not taking part in the adoption of this Regulation and is not bound by or subject to its application.
- (17) To the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006, this Regulation constitutes a development of provisions of the Schengen *acquis* in which Ireland does not take part, in accordance with Council Decision 2002/192/EC<sup>15</sup>; Ireland is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. In accordance with Articles 1 and 2 of the 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 the European Union and to the Treaty on the Functioning of the European Union, and without prejudice to Articles 3 and 4 of that Protocol, Ireland is not taking part in the adoption of this Regulation and is not bound by or subject to its application.
- (18) As regards Iceland and Norway, this Regulation constitutes – to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006 – a development of the provisions of the Schengen *acquis* within the meaning of the Agreement

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<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).

<sup>13</sup> Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

<sup>14</sup> Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p. 43).

<sup>15</sup> Council Decision 2002/192/EC of 28 February 2002 concerning Ireland's request to take part in some of the provisions of the Schengen *acquis* (OJ L 64, 7.3.2002, p. 20).

concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*<sup>16</sup>, which fall within the area referred to in Article 1 of Council Decision 1999/437/EC<sup>17</sup>.

- (19) As regards Switzerland, this Regulation constitutes – to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006 – a development of provisions of the Schengen *acquis* within the meaning of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>18</sup>, which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/146/EC<sup>19</sup>.
- (20) As regards Liechtenstein, this Regulation constitutes – to the extent that it applies to third-country nationals who do not fulfil or who no longer fulfil the conditions of entry in accordance with Regulation (EC) No 562/2006 – a development of provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen *acquis*<sup>20</sup>, which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/350/EU<sup>21</sup>.
- (21) Since the objectives of this Regulation cannot be sufficiently achieved by the Member States but can rather, by reason of the effects of the envisaged action, be better achieved at the Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve those objectives.
- (22) In order to establish uniform conditions and ensure clarity of concepts, it is appropriate to adopt this act in the form of a Regulation.
- (23) This Regulation respects fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union, in particular the protection in the event of removal, expulsion or extradition provided for in Article 19 of the Charter.
- (24) This Regulation should repeal and replace Council Recommendation of 30 November 1994,

HAVE ADOPTED THIS REGULATION:

#### *Article 1*

#### **Subject matter**

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<sup>16</sup> OJ L 176, 10.7.1999, p. 36.

<sup>17</sup> OJ L 176, 10.7.1999, p. 31.

<sup>18</sup> OJ L 53, 27.2.2008, p. 52.

<sup>19</sup> OJ L 53, 27.2.2008, p. 1.

<sup>20</sup> OJ L 160, 18.6.2011, p. 21.

<sup>21</sup> OJ L 160, 18.6.2011, p. 19.

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

## *Article 2*

### **Definitions**

For the purpose of this Regulation, the following definitions shall apply:

- (1) 'third-country national' means third-country nationals as defined in point 1 of Article 3 of Directive 2008/115/EC of the European Parliament and of the Council<sup>22</sup>;
- (2) 'return' means return as defined in point 3 of Article 3 of Directive 2008/115/EC;
- (3) 'return decision' means return decision as defined in point 4 of Article 3 of Directive 2008/115/EC.

## *Article 3*

### **European travel document for return**

1. The format of the European travel document for return shall correspond to the model set in the Annex. It shall contain the following information of the third-country national:
  - (a) the name, surname, date of birth, sex, nationality, distinguishing marks and, if known, the address in the third country of return of the third-country national;
  - (b) a photograph;
  - (c) the issuing authority, date of issue and period of validity.
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.
3. The document shall be valid for a single journey to the third country of return.
4. Where necessary, additional documents necessary for the return of third-country nationals may be attached to the European travel document for return.
5. The Commission shall be empowered to adopt delegated acts in accordance with Article 6 in order to amend the format of the European travel document for return.

## *Article 4*

### **Technical specifications**

1. The security features and technical specifications of the European travel document for return shall be those set in application of Article 2 of Council Regulation (EC) No 333/2002.
2. Member States shall forward to the Commission and to the other Member States a specimen of the European travel document for return drawn up in accordance with this Regulation.

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<sup>22</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).

#### *Article 5*

##### **Issuing fees**

The European travel document for return shall be issued free of charge for the third-country national.

#### *Article 6*

##### **Exercise of the delegation**

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 3(5) shall be conferred on the Commission for an indeterminate period of time from [*insert date entry into force*].
3. The delegation of power referred to in Article 3(5) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 3(5) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.

#### *Article 7*

##### **Repeal and replacement of Council Recommendation 30 November 1994**

Council Recommendation of 30 November 1994 concerning the adoption of a standard travel document for the expulsion of third-country nationals is hereby repealed and replaced.

#### *Article 8*

##### **Entry into force**

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 be binding in its entirety and directly applicable in the Member States in accordance with the Treaties.

Done at Strasbourg,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*