

THE BIOMETRIC PASSPORTS - BETWEEN PROTECTION AND INFRINGEMENT OF THE HUMAN RIGHTS. TECHNICAL – JURIDICAL – RELIGIOUS PERSPECTIVE

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Abstract:

In Romania, the equally controversial and contested issue of the biometric passports has been determined by the introduction in the internal juridical order of the EC Regulation no. 2.252/2004 on the standard of security features and biometrics in passports and travel documents issued by member states¹. The national regulation in the field is the G.O. no.206/2008 for the modification and completion of Law no. 248/2005 on the right of the Romanian citizens to freely travel abroad².

At present, when everything is so rapidly learned and revealed by the press, intimacy and immunity have become highly important issues. Questions are raised by those who are worried about the intrusion of the new technologies in the „fragile personal life³”. Although the infringement of the right to intimacy and privacy may have different sources, at the moment, there is a lot of debate around the issue of the right to personal data intimacy, which is defined by prof. Alan Westin, a law teacher at Harvard University, as „the right of an individual, group or institution to choose how, to whom and by whom his personal data shall be communicated⁴”.

Under these circumstances, the question that emerges is to what extent the state should generally interfere in the management of personal data⁵, especially that RFID (radio-frequency identification)-based protection of personal data has proved its numerous drawbacks. Many specialists in the field consider that politicians have overestimated the security of these technologies.

Key words: biometric passports, Regulation no. 2.252/2004, the right to freely travel abroad.

In the name of security, all countries around the world are striving to redefine the line between supervision and intimacy. Governments worldwide draw attention on the need of supervision in a world that is more and more insecure. New techniques like identification implant, iris scanning, and facial recognition could betray criminals or border trespassers. Also, of the same importance is the fact that these systems have the power to violate our intimacy. The supervision systems of the future will not spare anyone or anything.

¹ Published in the Official Journal of the EU no. L 385/1 of 29.12.2004;

² In this respect, see also G.O. no. 94/2008 on the establishment of some measures regarding the issue of electronic passports and other travel documents.

³ C. Belgun, Dreptul la intimitate în internet, pe <http://www.legi-internet.ro>

⁴ Idem

⁵ R. Carp, Pașapoartele biometrice între moderație și pasiune, feb. 2009, pe <http://www.hotnews.ro>

The declared scope of the biometric passports introduction⁶, as stipulated by art.3 of the EC Regulation no.2.252 of 2004, is to provide a safer travel document, to ensure a more reliable connection between the bearer and his travel document, in order to considerably improve protection against fraudulent passports. It is also mandatory to apply the Directive no. 95/46/CE of the European Parliament of 1995⁷, on the protection of individuals with regard to the processing of the personal data and on the free movement of such data.

Concerning the technical elements of protection against illegal reproduction, passports must be provided with a VDO or a similar device that could ensure the same degree of identification and security as the current one, used in the common visa format (it is used on the page containing personal data in the form of some diffraction structures which appear differently when regarded from different angles (DOVID), imbedded in a laminate security seal or other seal (as thin as possible) or covered with a layer of VDO, and for stickers in the middle page, made of non-laminate paper, fully or partially metal-coated (with super printing in deep pattern) or similar devices). To ensure the appropriate protection of the personal data against forgery attempts, passports must be provided with laminate security seals or a similar layer (as thin as possible), that should contain an anti-tampering device, in case the following techniques are used: laser printing, thermal transfer, ink-jet printing and photocopying.

The biometric passports⁸ approached in this paper are electronic passports, identification documents containing personal data, along with facial image and fingerprint.

The introduction of the fingerprint represents a violation of the right to intimacy, stipulated by art.7 of the Charter of Fundamental Rights, but also by the art. 26 of the Constitution of Romania⁹. Considering that EU regulations take precedence over the opposite provisions of the national legislation, it would be extremely difficult to win in case of appeal against the EC Regulation, as some NGOs or even the Church would have liked.

At present, Romania lies among the few countries that decided upon both fingerprinting the passport bearer and storing the digital fingerprints in the chip memory. In order to make sure that the personal data in the passport is not accessed by unauthorized readers or even cloned, a new system has been implemented, that is able to encrypt the data stored in the chip, so that they can be read only by the authorized terminals located at the customs. The RFID chip introduced in documents ensures the dynamic character of the information used for identification¹⁰.

⁶ The introduction of the biometric passports in Romania has been postponed the 7th time in the last three years, the latest date set by the government being January 31st, 2010, due to delays in the selection of the company to manufacture them at national level.

⁷ UE Official Journal no. L 281 of 23.11.1995;

⁸ As compared to the current passports, the new passports have the electronic storage environment of the bearer's biometric data imbedded in the chip. At its turn, the chip is introduced in a polycarbonate page that ensures its protection and security, also guaranteeing its authenticity, integrity and data privacy, the arms of Romania in intaglio technology, where the polycarbonate page - containing the bearer's identification data and the chip - is introduced between the first cover (inside) and page 1, page 1 containing the bearer's shaded photo made by inkjet printing, the bearer's laser-encoded and shaded photo made by laser punching, the passport number punched on pages 1-32, including the second cover, and on the laser-engraved polycarbonate page - the optically readable computerized data (MRZ), the photoengraved band on cover 1; the used paper contains wire marks in 3 shades, the stapling wire being protected by binding; the sign „European Union” is introduced in the cover, being the special mark of electronic passports. These passports highlight 50 security elements as compared to the 32 elements of the current passports.

⁹ R. Carp, Pașapoartele biometrice între moderație și pasiune, feb. 2009, pe <http://www.hotnews.ro>

¹⁰ V. Niculescu-Dincă, Pașapoartele biometrice: mituri eterne și temeri justificate, în Revista Știință și Tehnologie, 01.02.2009

The fingerprinting of a passport bearer induces the general perception that only crime suspects are subject to these procedures. Fingerprinting the entire population of a country could arise a justified feeling of suspicion, destroying people's trust in the principle of the individual's freedom in the society.

The Schengen agreement also arose violent protests on its implementation, due to the "electronic filing"¹¹. For instance, its art. 99/6 stipulates that based on the principle of "suspicion", any citizen can become subject to "discrete supervision". "If this special control is not stipulated by the legislation of a certain member state, for that country, this special control shall automatically become "discrete supervision".

The debate around the introduction of the biometric passports has determined numerous discussions on their technology. This technology also has its negative effects, like pollution or destruction of the natural balance in different ecosystems, subtle changes in the social structure or in political scheming, in cultural concepts and beliefs¹²; it can determine changes in different thinking patterns, but it can also encourage behavioral propensities, to change the bearer's perception, and to reshape human values"¹³.

In the future, people worldwide are expected to have identification chips implanted in their bodies.

Radio-frequency identification chips (RFID) are small-size transmitters that can be incorporated in any kind of product and read from remote locations. Basically, they are bar codes¹⁴ updated for our century. When activated, they send a special code that can be read from up to 10 m. They are generally used in stores to track inventories and products worldwide. RFID technology allows a certain company to see when the product is in the warehouse or when it is purchased and brought home by a customer. Theoretically, that product can be tracked even after being purchased. Activated or not, these chips send a special signal that can be read by the scanner. Due to the increasing number of chips (in clothing, products), a new frequency needed to be launched that would not be jammed by signals not serving the interest of the trackers. The growing number of these tracking devices has determined the use of the UHF and VHF bands¹⁵.

This seemingly harmless technology that should ease our life is becoming part of the „functional network”¹⁶.

The American company VeriChip uses this technology for human implants. This technology that had been introduced in the USA to track products is used nowadays to identify and track human beings. Every chip gets a number. A scanner connected to a database can reveal the owner's identity as well as many other things. These are the only chips approved by FDA (Food and Drug Administration) and they are meant to connect the personal data and the medical background of an individual on an authorized site. In case of an emergency, if the patient is unable to speak, ER doctors will be given the chance to scan the person, to read a number made up of 16 digits, which is the only information encrypted in the microchip, and finally, to access the patient's medical data. Originally, these

¹¹ See the speech of oct.1992, held by the Dutch Van Oorterve before the Council of Europe, who draws attention on 9 undemocratic aspects of the Agreement, along with the protests of 1995 before the Council of Europe.

¹² R. Sclove, *Democracy and Technology*, Guilford Press, New York, 1995, citat de V. Niculescu-Dincă, *Pașapoartele biometrice: mituri eterne și temeri justificate*, în *Revista Știință și Tehnologie*, 01.02.2009

¹³ V. Niculescu-Dincă, *Pașapoartele biometrice: mituri eterne și temeri justificate*, în *Revista Știință și Tehnologie*, 01.02.2009

¹⁴ The „bar code” system was introduced by the USA in the early 1970, being first used in the rapid code reading of freight train containers, bringing about huge economic advantages. In 1978, a European Council was set up, named the European Article Numbering Association, with the declared purpose of storing economic data.

¹⁵ O victorie împotriva statului polițienesc, pe <http://apologeticum.wordpress.com>

¹⁶ Cipuri și acte biometrice, pe <http://www.zonade criza.wordpress.com>

microchips had been used by VeriChip on pets¹⁷. They promote the idea that all immigrant workers and the U.S. army should be implanted these microchips. They have already been implanted in patients suffering from neuro-degenerative diseases, such as Alzheimer, so that they can be identified in case of an emergency.

But the new generation of RFID chips will go far beyond the transmission of a simple number. Many countries wish to implement this technique in driving licenses.

The EFF (Electronic Frontier Foundation), an organization that promotes the privacy of personal data, shows that these chips can transmit the individual's name, birth date and citizenship. The question rises around the protection of the American children who can obtain their driving license at the age of 16, and thus, the amount of information a foreigner should know about him, especially that he is underaged.

RFID chips are also implemented in Great Britain. All newly issued passports have incorporated RFID chips. The future version of identification document will also contain this technology.

Although this modern supervision technology is said to ensure our security, to protect us against different crimes, and to help us fight against terrorism, many specialists consider that politicians have overestimated the security of this technology.

In this respect, a relevant documentary¹⁸ demonstrates the drawbacks of this technology. Near London, in an old nuclear bunker used as a highly secured place for companies to keep their personal data, the main character (who had been previously implanted in the arm an identification chip) is noticing on a monitor placed at the entrance different images of him walking on the streets. Inside the facility, he could even hear his own voice through some speakers mounted there. Moreover, the interviewed expert also showed that even his phone calls had been recorded using the Bluetooth signal and the scanning of the area in which he was at that moment. Images were then transmitted in a wavelength extremely easily to intercept, and which facilitated their copying. The entire area was scanned with a common portable scanner. It was also proved that the chip could be read by a common reader, and by way of some chips bought easily on the Internet and implanted in another individual's hand, a person's identity could be easily stolen. Basically, the hand-implanted chip, which is promoted as a secure method to establish a person's identity, can be cloned. Therefore, this is a really important revelation about a technology that we are all supposed to wear in the future.

For the time being, the main concern focuses on the security of the biometric passports, because it can take just a few seconds before all the personal data displayed on the scanner be read by anyone. In reality, a cryptographic key is necessary, based on very accessible information such as passport number, date of birth, etc. that are combined according to a published algorithm that can be downloaded from the Internet.

Ironically, all these criminals and terrorists whose actions these passports are meant to prevent might get to find out the weaknesses of this system, and finally might use our passports instead of theirs.

Another American experiment¹⁹ was made with the help of a hacker who used a RFID-chip reader, provided with 4 antennas to cover the entire area around the car and a

¹⁷ The press agency Associated Press released in 2008 a report made by Katherine Albrecht, a Ph.D. expert in personal security issues, who demonstrated that after a 10-year research study on rats injected with transmitters under the form of solutions, these have developed malignant tumors around these chips. – <http://www.petitiononline.ro>, „Spuneți un NU hotărât implanturilor cu microcip”

¹⁸ Națiunea suspectă, pe <http://video.google.com>

¹⁹ Cris Paget, interviu în revista Tech Digest în Introducerea cipului biometric, un atentat la siguranța națională. Cum se clonează la minut celebrele para-sigure cipuri, Coaliția anti cip, pe <http://www.angel.ro>

laptop which required the RFID reader to scan using passport codes that it memorized. This device detected several codes, three of which had the same prefix corresponding to the same passport. The microchip was also provided with a “self-destruction” code, as well as a “blocking” code. While the latter prevents the change of the identification code, the first can be used to de-activate the attack and determine its self-destruction. The identification code can thus be used to change it by another code on a new microchip, which, as mentioned before, can be easily bought on the Internet.

A documentary made by National Geographic²⁰ shows that a club from Mexico identifies clients based on these chips. In 2003, the Mexican general district attorney, along with a part of his personnel implanted themselves these RFID chips to have access to highly secured areas.

Thus, identification implants could only be the beginning. Future chips could be synchronized with the GPS technology, enabling any individual’s satellite positioning, anywhere in the world.

In the USA there are about 7500 criminals tracked by GPS devices, which are continuously getting smaller in size. Although at present implants cannot be made using GPS technology, it is just a matter of time until each criminal will be implanted an identification chip.

In science-fiction times, this method is becoming reality. But the more complicated and developed these techniques are, the more controversial they become.

The opponents of the biometric passports have set forth many times religious reasons. They are considered a bad omen, a sign of the Apocalypse. Although the Romanian Orthodox Church did not take any position from the very beginning, further official statements have clearly rejected the introduction of these passports. The clergy believes that these would reduce the human being from *Imago Dei* to a simple chip or electronic number. If biological cloning is rejected based on bioethical reasons, why not reject also the biometric electronic cloning, using as theological motivation the conceptions of the Orthodox Church on anthropology²¹.

Other opinions suggest that the biometric passport would be a sign of slavery, and its bearer would become “registered”. Paradoxically, orthodox countries accept these passports equipped with a chip, which is nothing more than the sign of Satan. Others go even farther, comparing the implantation of the identification chip with the events that happened in those times when people were marked with identification numbers, being treated as objects.

Features like computerized surveillance network, identification code or bar code are part of a system applied worldwide. But because this system is interpreted based on the Book of the Apocalypse which asserts: “... that who is wise should consider the number of the beast, for it is the number of a human being. And his number is 666”. We have to make the difference between reality and prophecy. Thus, since the 1970s, some American Christians have demonstrated that the UPC-A and EAN-13 – type bar code system is equipped with three pairs of extended lines that can be read within the computer memory through the digit 6²². This identification system will prevent any individual to perform any economic transaction without being registered and controlled by the system. „So that

²⁰ Peter Yost, Implant de Cip, National Geographic, documentar pe <http://www.google.com>

²¹ A study on RFID made by priest prof. M. Valica, Ph.D. with the blessing of IPS Teofan, on <http://www.apologeticum.wordpress.com>

²² M. Vlad, Apocalipsa 13. Sfârșitul libertății umane, Biblioteca Teologică Digitală Apologeticum, 2004

nobody can buy or sell, but the one who bears the sign, namely the number of the beast or the number of the beast's name" (APOC 13:17).

The L.U.C.I.D. project is a universal system for personal data identification, collection and processing, initiated after the adoption of an anti-terrorism law which authorized between 1994 -1995²³ the American Police to put under arrest any person who seemed suspect of terrorism. The basic principle of this project is to issue for each person on his birth an electronic identification card that would contain his identification document, passport, employment record, etc. The system will have a data storage and processing center, along with an automatic polyglote translation center²⁴. Another type of card is MARK²⁵ (meaning *sign*, which alludes to the „sign of the beast”), used by the American army. The Apocalypse of St. John: „the sign on the hand or on the forehead”, the number of the beast is the implantation of the identification biochip inside the body, ensuring thus an efficient protection against the card loss or theft.

The Church has also reacted against the implementation of the Schengen Agreement, for instance the Holy Synod of the Greek Church which issued the memorandum no. 2626 of April 7th, 1997, to the „Honorable Orthodox Greek people”, under the title: „The Schengen Agreement and the law for the personal data protection”, considering that the progress of civilization in the field of electronic applications is unfortunately related to number 666, which is further used as a personal number in this technology. This number is clearly mentioned by the Holy Book of the Apocalypse as the number of the Anti-Christ.

Yet, who has chosen number 666? And why this number, especially that it has determined so much controversy? Apart from the different quotations from the Apocalypse, a possible reason offered by the Church is the deep national religious symbolism of the number 666 for the Jews, which has been since the magnificent times of Solomon, a symbol of power and sovereignty over other peoples, including economic submission: “The weight of the gold that had been fetched to Solomon for an entire year was of six hundred sixty-six gold talents” (II Paralip. 9, 13)²⁶.

The bottom line is that from a religious perspective, somebody's willingness to accept the number 666 (in any form it would be!) on his personal identity means to reject Jesus, and thus, accept eternal death.

Going beyond the juridical, religious or technical analysis, the real issues are related to the infringement of the personal freedom, to the idea of living in a controlled and supervised world, in which we could be manipulated by a handful of people who hold the power.

The individual's intimacy, freedom and dignity must be respected and therefore, authorities should do more for the transparency of the decision-making in this field, in order to eliminate new questions, confusion and insecurity.

²³ J.P. Creusat, A. S. Halaris, L.U.C.I.D. and The Computer-Terrorism Act of 1995, The Narc Officer, sept./oct. 1995

²⁴ The data storage, processing and analysis center is formally named the Universal Computerized Identification Clearing-house Resource Center and is located near Washington, at Fort Meade, Maryland.

²⁵ Multi - Technology Automated Reader (Cititor Automat Multi-Tehnologic). Many American soldiers have refused to donate any blood for their DNA to be encrypted on the card, on the grounds that they could become the slaves of the system.– J. Ferrati, M. Worries I. D. is Satanic, Christianity Today, 1995, cited by M. Vlad, Apocalipsa 13. Sfârșitul libertății umane, Biblioteca Teologică Digitală Apologeticum, 2004

²⁶ M. Vlad, Apocalipsa 13. Sfârșitul libertății umane, Biblioteca Teologică Digitală Apologeticum, 2004

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