

# Transforming travel in Europe: A critical analysis of the debate on EU Digital Travel

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## Abstract

The objective of the present study is an analysis of the EU Digital Travel project within the European Union, with a view to examining how this initiative fits into the broader context of the regulation of travel documents. To this end, the study will undertake two main tasks: firstly, it will present the traditional concept of the travel document as well as current activities of the European Union and its member states in the field of travel document digitisation. Secondly, it will present and analyse the positions taken in the public and expert debate on the EU Digital Travel project. The research question focuses on whether digitising travel documents in the European Union actually facilitates citizens' mobility, or if it could constitute a threat to individual rights. The study is a continuation of the authors' prior work in the field of migration law and informatization of public services. Methodologically, a combination of legal and institutional analysis (desk research) was employed, covering legal acts, programme documents, and expert studies, as well as an analysis of the public and political discourse surrounding the project. The study's added value lies in its critical synthesis of the arguments in the debate and its positioning of the EU Digital Travel project within the long-term process of travel transformation in the contemporary world.

**Keywords:** travel documents, electronic documents, freedom of movement.

## 1. Introduction

For years, the European Union (EU) and its member states have been using digitalisation in border procedures and migration management [1]. EU programme and strategy documents make it clear that the use of new technologies in these areas will continue to increase [2]. At the same time, in line with global trends, other areas of public administration in individual member states are also being digitised. In the EU, this is reflected in the Digital Decade Programme, which aims to fully digitise key public services [3].

One of the initiatives aimed at achieving this objective in conjunction with the objective of digitising border procedures is the EU Digital Travel project [4]. The fundamental purpose of the initiative is to introduce digital travel documents, also referred to as "digital travel credentials", as well as a new EU Digital Travel application. The latter will allow travellers to create, store and use their digital travel credentials. Principally, these credentials are intended to contain the same data as traditional passports and identity cards, but in digital form. It is therefore asserted that they will constitute a specific type of travel document, understood to refer to an official document that proves a traveller's identity. As with other initiatives of

this kind, it provokes discussion and a variety of responses, ranging from enthusiastic support to significant concerns and outright rejection. Supporters of the initiative point out that it will make travel easier, contributing to the development of freedom of movement while ensuring the safety of users of the new digital solutions. Sceptics, however, argue that it could be used to discriminate against, exclude and excessively control people, posing many security risks, particularly with regard to personal data protection.

In order to develop a grasp on the novel solution, it is important to analyse the legislative proposals concerning the EU Digital Travel initiative and the arguments raised in the ongoing discussion. In achieving a more profound comprehension of the issue, it is necessary to refer to the prevailing concept of travel documents. Therefore, it is not just a matter of presenting the EU Digital Travel project, but also of examining how this initiative fits into the broader context of existing legal regulations as well as relevant previous experience with digital form of documents. To this end, the present study will undertake two main tasks. Firstly, the concept of a travel document will be presented, with consideration given to the current EU legal framework and examples of document digitisation projects. Secondly, the EU Digital Travel project will be discussed, and the positions taken in the public and expert debate will be analysed. The central research question focuses on whether the initiative constitutes a redefinition of the conventional understanding of travel documents, and whether it facilitates mobility, or if it could lead to restrictions on individual rights. Methodologically, a combination of legal and institutional analysis (desk research) will be employed, as well as an analysis of the public and political discourse surrounding the project.

## **2. The concept of a travel document in the European Union legal order**

“Travel document” is defined as a document issued by a government or international organisation that proves a person's identity when crossing international borders [5]. Consequently, the issuance and use of travel documents is an indispensable element of contemporary regulations concerning international passenger traffic and migration.

In the EU legal order, a current legal act containing the legal definition of a travel document for the purposes of its application is Regulation (EU) 2018/1240 of the European Parliament and of the Council of 12 September 2018 establishing a European Travel Information and Authorisation System (ETIAS) [6]. According to its provisions, a “travel document” is a passport or equivalent document that entitles the holder to cross external borders and to which a visa may be affixed. In a similar fashion, Decision No 1105/2011/EU of 25 October 2011 on travel documents entitling the holder to cross external borders, and on the endorsement of visas on these documents, employs the collective term "travel document" in order to

encompass various types of documents [7]. In light of Article 1(2), this term covers the following types of documents: a national passport (ordinary, diplomatic, service/official or special passport), an emergency travel document, a refugee or stateless person's travel document, a travel document issued by international organisations, or a laissez-passer.

However, the terminology analysed in the EU regulations is not used fully consistently. Council Regulation (EC) No 2252/2004 of 13 December 2004, which concerns standards for security features and biometrics in passports and travel documents issued by Member States, invariably refers to “passports and travel documents” [8]. This wording suggests that passports are not to be considered travel documents, but rather fall under a separate category. It is important to note that the distinction between passports and travel documents is relevant in certain contexts, particularly when comparing passports with travel documents issued under the 1951 Convention relating to the Status of Refugees [9] and the 1954 Convention relating to the Status of Stateless Persons [10]. In accordance with the provisions of these conventions, the Contracting States agreed to issue travel documents to refugees or stateless persons lawfully residing within their respective territories, with the intention of enabling them to travel to foreign countries. This can be considered a consequence of the long-standing duality in academia regarding the concept of a passport. The document's function as proof of the holder's citizenship of the issuing country is not universally accepted, with some theorists treating it as such and others disagreeing and not considering it to be proof of nationality [11]. In practice, the EU member states issue documents that authorise both their citizens and – in some cases – foreign nationals to cross the borders. However, the approach adopted differs between member states. Some of them consistently distinguish between issuing passports to their own citizens and other travel documents to foreigners (i.e. Belgium, Germany, Poland, Spain) while others do not apply this rule (i.e. Austria, Czech Republic, Denmark, Estonia, Malta) [12].

With regard to other general EU legal acts that are relevant in the context of international passenger traffic, the Schengen Borders Code is of particular significance [13]. The Schengen Area constitutes a major development in European integration, contributing to the freedom of movement of people across 29 countries. In principle, internal border controls have been abolished in this area, with the focus now being directed towards the protection of the area's external borders. In accordance with Article 6(1)(a), a prerequisite for third-country nationals to enter the Schengen Area is the possession of a travel document. However, the Code does not provide a legal definition of a travel document. Alongside the Schengen Borders Code, the second legal act that is key to international passenger traffic is the Visa Code [14]. The Code uses the collective term “travel document”, which must be presented when applying for a visa (Article 10(3)(b)). The specific type of travel

document is irrelevant, provided it is recognised by at least one member state as suitable for affixing visas and meets the validity, date of issue and blank page requirements specified in Article 12 of the Visa Code.

It is worth noting that the EU law also employs a number of other terms. The terms “temporary travel document” and “European travel document for the return of third-country nationals staying illegally” are both subject to regulation. The former is subject to regulation by Decision of the representatives of the governments of the Member States, meeting within the Council of 25 June 1996 on the establishment of an emergency travel document [15], while the latter is subject to Regulation (EU) 2016/1953 of the European Parliament and of the Council of 26 October 2016 on the establishment of a European travel document for the return of illegally staying third-country nationals [16]. The term “European passport” is also employed, however, this does not refer to a distinct document. The term in question is, in fact, a reference to passports issued by individual member states of the EU. Following a process of standardisation that has been in effect for decades [17], these passports are distinguished by a set of common external features, and serve to confirm the holder's status as a citizen of the European Union. The majority of ordinary passports have a similar layout: a burgundy booklet with the words “European Union” and the name of the issuing state on the cover. It is imperative that passports are compliant with harmonised requirements for biometrics and security features [18].

In addition, within the scope of the study, there are also to some extent identity cards issued by individual member states. The issue pertains to one of the EU's foundational principles: the right to freedom of movement. In the early history of the European Coal and Steel Community and the European Economic Community, as outlined in the treaties establishing them, the term essentially referred to the free movement of workers. This was a crucial aspect in the reconstruction of Europe following the devastation of war [19]. Nonetheless, it has been observed that even during the preliminary deliberations, the broader context of dignity and personal autonomy began to emerge [20]. Over the years, this freedom has been enshrined in the EU law and its scope has gradually expanded. A significant milestone was the establishment of the European Union and the concept of its citizenship. In accordance with Article 20 of the Treaty on the Functioning of the European Union, the freedom of movement within the EU is one of the EU citizens' right [21]. A key practical aspect of facilitating their movement within the EU territory is that they are not required to present a passport or other specific travel document. An identity card issued by a member state is sufficient.

In summary, it can be assumed that, within the context of the EU law, the term “travel document” generally refers to a document that allows the holder to cross

borders and confirms their identity. This is most frequently a passport, but it is also applicable to a number of other documents, particularly those issued by an international organisation or a state to individuals who do not possess the nationality of the issuing country. In the following analysis, the project of EU Digital Travel will be examined in relation to the aforementioned characteristics. The investigation will establish whether the concept in question redefines these characteristics, and, if so, to what extent.

### **3. EU Digital Travel project**

The EU Digital Travel project was formally inaugurated in October 2024, when the European Commission adopted two proposals to introduce digital travel credentials for travellers to and from the Schengen area, based on passports and identity cards [4]. The core concept is the introduction of a new EU Digital Travel application, which will empower travellers to create, store and utilise their digital travel credentials. Digital travel credentials are to contain the same data as passports and identity cards, but in digital form, including the holder's facial image. Travellers will be able to request or use this digital version of their documents free of charge and on a voluntary basis while crossing the EU external borders.

The first proposal relates to the adoption of the Regulation of the European Parliament and of the Council establishing an application for the electronic submission of travel data [22]. It aims at:

- establishing a uniform standard for digital travel credentials and a common EU application (EU Digital Travel app) for using them,
- allowing people to use digital travel credentials to cross external air, land and sea borders based on a uniform EU technical solution, and
- enabling border authorities to carry out checks based on these credentials, to reduce bottlenecks and time spent at border-crossing points.

According to art. 3 of the Proposal, the EU Digital Travel application shall be composed of:

- a mobile application, enabling the creation of digital travel credentials for single or multiple use and the entry of self-declared travel data;
- a backend validation service, ensuring the confirmation of the authenticity and integrity of the chip data or the digital travel credential using available certificates and where applicable, the matching of the facial image taken from the user to the travel document or digital travel credential;
- a Traveller Router, which shall ensure secure and encrypted communication between the mobile application and the receiving authority.

The Proposal stipulates that once the digital travel credential has been created or derived from an existing travel document, it will be stored on the holder's mobile device. Consequently, data subjects maintain ownership and control over their personal data, determining the extent to which they choose to utilise it. While fingerprints are included in

the data of EU travel documents and certain third country travel documents, they are excluded from the contents of digital travel.

It should be noted that the application will be available to both EU citizens and third-country nationals. According to art. 4(4) of the Proposal in the context of third-country nationals, the fundamental requirement is the possession of a travel document that incorporates a storage medium. Those who are in possession of such a document may, subject to the availability of valid certificates necessary for the checking of its authenticity, use the EU Digital Travel application to create a digital travel credential for single or multiple use. As provided in art. 4(1) of the Proposal, in the case of persons enjoying the right of free movement under the Union law, the following documents may be used in the EU Digital Travel application: a travel document issued in accordance with Regulation (EC) No 2252/2004 [8], a travel document that contains the same data and that is based on technical specifications compatible with those provided for by the aforementioned regulation, allowing for the verification of its authenticity, validity and integrity; an identity card. In relation to the latter, the second Proposal (for a Council Regulation on the issuance of and technical standards for digital travel credentials based on identity cards) stipulates that upon request from the individual applying for an identity card, identity cards issued by member states are to be accompanied by a digital travel credential [23]. It will be the obligation of member states to provide holders of identity cards issued by them with the possibility of remotely creating a digital travel credential. To that effect, holders will be able to use the EU Digital Travel application. Holders shall be allowed to access the parts of the storage medium of identity cards that are necessary for the purpose of creating a digital travel credential. Before the digital travel credential is created, the member state shall ensure that the integrity and authenticity of the storage medium of the identity card are verified and that the facial image of the person seeking to create the digital travel credential is matched against the facial image stored on the storage medium.

As previously stated, the objective of digital travel credentials is to streamline border control procedures at the EU external borders. Therefore, prior to travel, travellers will be able to submit specific travel-related data via digital means, including the intended time of border crossing and the member state through which the external border is to be crossed. Such data should be limited to what is necessary for the purpose of carrying out the border check, including for the purposes of supporting the verification of the fulfilment of entry conditions. The Traveller Router is an essential system component that enables the transmission of travel data submitted by travellers to border authorities. Travellers should be at liberty to choose whether they use a digital travel credential or a physical travel document for the purpose of undergoing border checks. Furthermore, they should be able to withdraw their consent for the processing of their personal data at any time without it affecting their eligibility to cross external borders. Should the individual opt to utilise the system for the purposes of an advance check and facilitated travel, they are at capacity to submit the requisite data to the relevant authorities via the application which has been developed and operated by EU-lisa.

As outlined in the motives for the first Proposal, the objective is to facilitate border checks through two distinct mechanisms. Firstly, from an individual's perspective, the EU Digital

Travel mechanism will contribute to a reduction in waiting and processing times per traveller at the physical border crossing point. Secondly, from the perspective of public authorities and the public interest, the system will enhance security by enabling border authorities to conduct checks in advance and in a more innovative manner. According to the designers of the project, digital travel credentials have the potential to facilitate more efficient verification of travel documents by authorities, thereby reducing the ability of fraudsters to utilise false documents. The proposed measure will also enable border authorities to allocate their time and resources in a more efficient way, with a view to detecting cross-border criminals and migrant smuggling networks.

The Proposals are currently under discussion in both the public sphere and the European Union bodies as a part of the legislative procedure [24]. Prior to examining these debates, it is worthwhile to demonstrate a more extensive context of other digital solutions adopted in Europe with respect to documents and travel.

#### **4. EU Digital Travel alongside other digital solutions**

The aforementioned Proposals concerning EU Digital Travel align with “Digital Europe Programme (DIGITAL)” [25]. DIGITAL aims to shape the digital transformation of Europe’s society and economy, in line with goals defined in 2021 document “The Communication - 2030 Digital Compass: The European way for the Digital Decade” [26]. Digital Compass is centered on four cardinal points, one of which is the digitalisation of public services (with the specific objective of 80% of citizens using a digital identity by the end of 2030). Furthermore, the initiative of digital travel credentials in the EU is closely linked with ongoing developments on European digital identity and the European Digital Identity Wallet [27]. As proposed, digital travel credentials could be stored alongside digital driving licences or medical prescriptions.

The new system is also intended to be in alignment with the Entry/Exit System (EES), which is currently being implemented with the aim of improving the management of external borders [28]. EES is a digital border management system that records the entry and exit of non-EU nationals crossing the Schengen Area's external borders for short stays. The new system has been implemented in order to replace the previous system of manual passport stamping. Travellers are systematically registered each time they cross the external borders of the Schengen Area. The system is designed to collect and store the key data required to track the entry, exit and refusal of entry for non-EU nationals travelling to and from the Schengen Area. This includes the data listed in the individual's travel document, the date and place of each entry and exit, biometric data (i.e. facial image and fingerprints) and entry refusals [28]. The EU Digital Travel system is also to be interconnected with the European travel information and authorisation system (ETIAS) [6]. The latter will be utilised for the purpose of conducting preliminary verifications on visa-exempt travellers. The commencement of operations is scheduled for the final quarter of 2026 [29].

In addition to the systems introduced at the EU level, individual EU member states have already adopted a variety of digital solutions with regard to identity documents. In order to determine the most effective manner in which to manage EU Digital Travel, it may be beneficial to examine a number of examples. While initial steps have been taken towards

the integration of electronic passports within mobile applications [30], it appears that eID (electronic identification documents) solutions remain the more advanced option within the European Union. In the present day, eIDs are working smoothly in many European countries. In 2023 the highest shares of people using eID to authenticate themselves when accessing online services were in Denmark (98%), the Netherlands (95%), Finland (94%) Sweden (93%) and Estonia (89%). The eIDAS Regulation stipulates that all EU Member States must recognise eIDs from other EU countries that have been notified to the European Commission [31]. In 2023, 36% of EU citizens used an eID to access online services offered by public authorities in their own countries, but only 6% of people in the EU used an eID to authenticate themselves when using public services offered by public administration of another European country [32]. The highest percentage of people stating that they had used their eID in the previous 12 months to access services provided by public authorities or public services of other European countries was found in Ireland (21%), followed by Sweden (20%) and Luxembourg (13%) [33]. According to eGovernment Benchmark 2024 only 37% of cross-border services currently accommodate user authentication via their national eID [34]. In view of the above and the fact that introducing digital travel credentials could allow the EU citizens to carry out further activities in the future (e.g. registering their residence in another member state), the planned regulations cannot be underrated.

The concept of EU Digital Travel is also interesting from the point of view of foreigners, given that eIDs in some EU countries can only be issued to citizens of that particular country. Although the concept of using electronic solutions to facilitate border traffic for refugees has been a topic of interest in scientific research for some time, it is worth highlighting new developments in this area [35]. Recently, a few countries have introduced some kind of electronic document (usually confirming the right of residence), which, when used alongside a valid travel document, allows border crossing. The first example of a fully digital residence document is the diia.pl document issued in Poland [36]. Following Russia's invasion of Ukraine in February 2022, the Polish government made the mObywatel application (accessible for Polish citizens) available to Ukrainian citizens legally staying in Poland. The application, accessible via the diia.pl service, allows users to confirm their identity throughout the EU. It allows users to download and store personal data from a dedicated registry in an encrypted form on their mobile device, which they can then present to other parties to confirm their identity. Ukrainian citizens have even more options than Polish citizens with the diia.pl app. In accordance with Polish law, diia.pl allows Ukrainian citizens to cross the border with a travel document [37]. Importantly, the mObywatel application, which was created for Polish citizens, does not allow them to cross the border; it only serves to confirm their identity. Given that almost 980,000 Ukrainians are currently under temporary protection in Poland, this solution is of great value [38]. Similar reasons lay behind Lithuania's introduction of electronic residence permits. These were temporary residence permits for beneficiaries of temporary protection fleeing Russia's war of aggression against Ukraine [39]. In Lithuania, the digital temporary residence permit has been the only one issued to foreigners under temporary protection in the country since 18 January 2023. The procedure is supervised by the electronic migration services (MIGRIS). In order to obtain a temporary residence permit on the basis of temporary protection, foreigners must fill out an application to issue or renew a temporary

residence permit, after which the digital permit is sent to their personal MIGRIS account [40]. Unlike the Polish one, the permit is a PDF file that contains a QR code for verification, amongst other information. According to the Migration Department, there are currently more than 49,000 Ukrainian refugees in Lithuania who have a valid temporary residence permit based on temporary protection. Since the beginning of the Russian invasion of Ukraine, more than 100,000 refugees have been registered in Lithuania's migration information system, MIGRIS. However, not all of these people have remained in the country. Some Ukrainians came to Lithuania temporarily, did not apply for temporary protection, and then left for Western Europe. Others returned to Ukraine or stayed in Lithuania and obtained temporary residence permits on other grounds [41]. Taking into account that Ukrainian national standards concerning electronic identification are not yet aligned with the eIDAS Regulation, and based on comparative studies, the models adopted in Poland and Lithuania are the most adaptable to the Ukrainian context with potential for further development in this area [42].

Experience with electronic documents issued to Ukrainians under temporary protection has highlighted numerous issues. Clearly, the governments that opted for digital solutions did not have the luxury of time for lengthy deliberations, as the need for these documents was urgent and they had to be implemented on a large scale from the outset. Nevertheless, this experience could contribute to debates on EU Digital Travel. Firstly, the experience with *diia.pl* showed that problems can arise when providing digital solutions to minors, requiring a careful approach to address these issues. It also proved that anti-discrimination solutions are imperative, particularly with regard to recognising that digital documents should not be considered a universal norm. Furthermore, security measures must be reinforced to prevent identity theft and fraudulent activities [43].

Another observation emerging from the review of the aforementioned solutions is that interoperability is a concern at the European level. This is important because interoperability is one of the objectives that the EU Digital Travel application aims to achieve. In fact, although some tools have been implemented across Europe, they are not being used to their full potential at the EU level. Various member states have created eIDs with different levels of interoperability. For the system to function properly, interoperability between different systems is necessary [44]. Initial insights from digital-only residence permits reveal that some countries are unable to verify digital-only documents at the border due to a lack of technical and digital resources and an inability to enter these formats of data into the national information system [39].

Therefore, extensive comparative studies of the aforementioned eIDs and electronic residence permits should continue and possibly contribute to discussion surrounding the EU Digital Travel initiative, which will be explored in the subsequent section.

## **5. Key problems and discussion points surrounding EU Digital Travel**

The European Commission's explanatory memorandum of Proposal for EU Digital Travel application emphasises that new digital solutions must be implemented due to pressure on verification processes at the Union's internal and external borders.

Although the number of irregular border crossings at the EU's external borders reached just over 239,000 in 2024, which is a 38% decrease compared to 2023 and the lowest figure since the post-pandemic situation in 2021 [45], the number of people crossing the EU's external borders is still high, reaching a total of 593 million in 2023. Of these, 65% were at air borders, 31% at land borders, and 4% at sea borders. It is also important to note that temporary border controls are increasingly being reintroduced within the European Union itself, for example between Poland and Germany, and between Poland and Lithuania [22].

However, the memorandum also addressed some important concerns about the EU Digital Travel project. It seems that privacy concerns, particularly those relating to data protection, are the most significant issue for the general public. Surveys conducted prior to the publication of the proposal concerning the EU Digital Travel application showed that data protection was the most urgent matter in relation to the digitalisation of services. The public consultation on the EU Digital Travel application attracted considerable interest, with almost 7,000 responses in total, predominantly from Germany, Austria, and Slovakia (58%, 8%, and 8% of responses, respectively). Opinions were largely negative regarding the use of digital travel credentials, with respondents expressing a low level of willingness to use them when crossing external borders. 83% of respondents thought that the possibility of using digital travel credentials was not important or not at all important, while 12% said it was either very important or important. When asked whether digital travel credentials could facilitate border checks, 72% answered negatively. Similarly, 58% of respondents said that being able to use digital travel credentials for other administrative procedures would not be at all useful, while a further 19% said that it would not be useful. Only 12% of respondents said they would consider using a digital travel credential if available, while 6% said they would consider it under certain conditions. Respondents primarily highlighted data protection and privacy concerns, as well as their overall satisfaction with the current processes, as motivations for their lack of interest in uptake [22]. The results of a special Eurobarometer survey EBS 539 were much more positive, with 68% of Europeans in favour of using digital travel credentials for travel outside the Schengen area and 28% opposed. Software failures were indicated as the most important concern related to the use of digital travel credentials. However, respondents also expressed concerns about data protection, device problems and cyberattacks [46].

A further concern is that the rapid acceleration of digitalisation may deepen the "digital divide" between minorities and the majority population. Digital inclusion remains a pressing issue in the context of new electronic solutions. This is why the aforementioned Eurobarometer survey (EBS 539) clearly established the divide. While 68% of Europeans were in favour of using digital travel credentials for travel

outside the Schengen area, 28% were opposed to their use for this purpose. Support was lower amongst older respondents: only 54% of those aged 55 or over and 50% of retirees were in favour [46]. These results are consistent with Eurostat data. In 2023, the age group that used their eID most often in the previous 12 months was 25-34 year olds (50%), followed by 35-44 year olds (49%) and 45-54 year olds (44%). Unlike with other types of internet activity, young people aged 16–24 were not the strongest user group: only 40% of them stated that they had used their eID in the preceding 12 months. People aged 55 years and over used their eID the least frequently: 36% of those aged 55–64 years and 25% of those aged 65–74 years [33].

The same applies to foreigners. A study conducted in Finland showed that there were significant differences in the prevalence of eIDs among different migrant groups [47]. Those who had moved to Finland from outside the EU and OECD countries were more likely (15.8%) to not have an eID than those from other regions (4.4% to 5.5%). The results of the study showed that a lower socio-economic status was associated with not having an eID, which illustrates the intertwining of social and digital exclusion. In conclusion, the study found that while most of the population can manage, and even benefit from, the digital provision of services, those who are already vulnerable may face additional obstacles in accessing necessary services due to digitalisation. For elders and foreigners, the consequence is that others (e.g. family members or friends) must complete the online process on their behalf. The social and legal consequence of the digital divide is that digital citizenship is a right that is not being exercised [48].

Apart from the objections raised by the general public, concerns were also expressed by non-governmental organisations, particularly those specialising in human rights protection in the digital environment [49]. Firstly, it was noted that, despite the digitalised check of travel documents requiring the processing of biometric data and exposing passengers' facial images to national authorities, the Proposal does not contain any specific, advanced security requirements. This is consistent with the aforementioned concerns that were expressed during the public consultation on the project. Another objection relates to the stated objective of introducing the EU Digital Travel application. There were doubts as to whether the primary beneficiaries are actually the travellers or rather the commercial airlines and border administration. Consequently, the question was raised as to whether it would contribute to freedom of movement, or whether it would instead reinforce existing forms of discrimination or create new ones. The fact that use of the application would not be obligatory did little to dispel these fears. As expressed by European Digital Rights (EDRi) association, *[t]he imbalance of power between the traveller and the border authority – and the consequences of seeming ‘suspicious’ or ‘difficult’ so profound in the often discretionary process of immigration – means that the individual has very little power or genuine control. People who are*

*disproportionately constructed as security threats and treated to over-policing will be even less willing to exercise their supposed free choice not to use the new travel app, for fear of being harassed, detained or denied travel [49].*

Some of the aforementioned issues were later addressed during discussions that took place in the European Parliament bodies as part of the legislative process. One interesting point is how Motive 1 of the proposal is supposed to be amended as a result of these discussions, as this illustrates the different views on the connection between EU Digital Travel, public security, and public interest protection. In the original Commission's proposal, reference is made to the Schengen border code. The version proposed by the Commission states that border checks carried out in accordance with the code *serve the purposes of reliably identifying travellers, preventing threats to the internal security, public policy, public health and international relations of Member States as well as combatting irregular migration while respecting fundamental rights* [22]. During the debate, some discussants aimed to delete the list of values mentioned above, while others aimed to delete only the phrase *combatting irregular migration*. There were also amendments that aimed to delete the phrase *respecting fundamental rights*, as well as amendments that aimed to strengthen the focus on combatting irregular migration [50]. In the Draft Report on the Proposal for a Regulation of the European Parliament and of the Council Establishing an Application for the Electronic Submission of Travel Data, presented by the Committee on Civil Liberties, Justice and Home Affairs, the Motive was amended to eliminate the focus on irregular migration [51]. Nevertheless, the range of opinions expressed on this relatively minor issue highlights the diversity of views on the broader concept of the regulation's motives.

A fundamental part of the debate concerning the proposed amendments related to data privacy and cyber security [52]. According to the amendments suggested in the Draft Report, the new regulation should only cover persons over the age of 18. The reasoning behind this is that *[c]hildren merit specific protection with regard to their personal data, as they may be less aware of the risks, consequences and safeguards concerned and their rights in relation to the processing of personal data. Furthermore, facial recognition technology may not be able to reliably match the facial image of a growing child with the image stored on the chip* [50]. According to the Draft Report, the Commission should be granted the power to adopt delegated acts to amend the minimum age, provided the technical requirements and other relevant conditions for granting digital travel credentials to persons under 18 are met. Apart from that, it was noted that the primary proposal did not include amendments concerning the secure operation of the Travel Router and the deletion of travel data by border administration, nor any regulations regarding the design of the mobile application that would guarantee a high level of data and privacy protection. As a result, the necessary amendments were made.

According to the version included in the Draft Report, the application should also contain practical information and be accessible to people with disabilities. Special emphasis was placed on anti-discrimination rules. The following amendment to art. 4(6) was proposed: *The choice of a traveller not to use the EU Digital Travel application shall not lead to any discrimination against that traveller* [50, 51]. The same amendment is included in the Draft Report. The latter also makes direct reference to fundamental rights, including the right to respect for one's private life and to the protection of personal data, paying particular attention to vulnerable persons.

## 6. Conclusions

The central questions posed by this study were as follows: firstly, does EU Digital Travel have the potential to redefine the conventional understanding of travel documents and to transform travel; and secondly, does it have the potential to facilitate this transformation, or could it lead to restrictions on individual rights through excessive control of personal data? The conclusion drawn from the analysis of the notion of travel documents in the context of the EU legal order, EU Digital Travel itself, as well as certain experiences with electronic documents and the debate can be presented in the following points.

1. The legal dimension of the proposed solutions must be considered primarily, and they must be placed within the existing travel document system. It is important to note that digital travel credentials do not replace traditional travel documents. The EU Digital Travel application is intended to provide only a digital representation of these documents. The optional nature of the application is also significant. Therefore, it is inaccurate to suggest that the concept of a travel document is being redefined; rather, a new form has been devised to express its content, which is supplementary but not alternative. The fundamental purpose of travel documents as a means of identifying travellers remains unchanged. Indeed, if the system's implementation does contribute to reducing the scale and possibility of using forged documents, as announced, this function will be strengthened in practice.

2. Secondly, while the proposed solution is innovative, it is not entirely revolutionary. The concept of reproducing documents digitally is not a new phenomenon; it has been used in various countries for a considerable time, albeit to different degrees, as the examples in the text show. Unlike conventional travel document issuance, this solution stands out for its ability to issue digital credentials to citizens of other countries, provided they have a document that meets the appropriate technical standard. By contrast, under the traditional approach, travel documents are only issued to citizens of other countries in special situations (e.g. refugee status, statelessness or an inability to obtain a document from the authorities of one's own country). However, as previously indicated, it should be noted that a

distinction must be made between issuing the travel document itself and creating a digital travel credential. National competencies in issuing passports and other travel documents remain unchanged; the EU will only provide the functionality to create their digital representation.

3. Thirdly, the fundamental question of the role of new solutions in facilitating travel and strengthening freedom of movement must be addressed. Clearly, the recently proposed solution has the potential to significantly streamline border procedures and facilitate the management of international passenger traffic. This type of effect is undoubtedly advantageous for air and ground traffic operators and border administration authorities. To achieve this, suitable public communication strategies must be implemented to encourage as many traveller groups as possible to use this solution. In terms of individual beneficiaries, it seems that those who will benefit most from this facilitation are those who, in the absence of such measures, are already privileged. The EU and member states' governments face the challenge of extending the benefits of new technologies to less privileged groups.

4. Fourthly, it is worthwhile considering the various issues that have been raised regarding the use of digital travel credentials. From the perspective of EU citizens, the most significant concern appears to be technical issues relating to cybersecurity, particularly data protection — including biometric data. Any form of digitisation inevitably introduces a certain degree of risk to digital security. However, the level of risk depends on the technological solutions implemented and used for new solutions. In this context, the principle of voluntary use should be embraced, and the most rigorous approach to security issues advocated. Significant concerns have been raised regarding the implications for fundamental rights and the principle of non-discrimination. The primary issue pertinent to this discussion is digital exclusion. The assertion that the use of digital travel credentials is voluntary only partially resolves this issue. If this solution is widely embraced by society and adopted on a large scale, any individual who chooses not to use the EU Digital Travel system may be viewed with suspicion, regardless of their reasons. The project's creators have been transparent about one of the objectives of the new solutions being to enhance border guards' control capabilities and efficiency in this area. It is evident that digital tools, including AI, have long been used in border and migration control measures. However, this is predominantly associated with securitisation and restrictions rather than facilitation. Therefore, it is crucial to distinguish between measures that enhance freedom of movement and measures that restrict migration. In practice, paradoxically, these two categories sometimes tend to intermingle. As Luke van der Baaren and Dimitry Kochenov put it with regards to the results of international activities concerning standardisation of travel documents (passports) that took place exactly a hundred years ago, the international standards for passport formats made them easier to recognise and more trustworthy

in terms of fraud prevention, but they also laid the groundwork for stringent border controls and immigration restrictions and *solidified the travel control regime* [53]. At the present moment, the values in question are still the subject of debate. Those responsible for the implementation of the EU Digital Travel concept must determine a course of action that will allow for the provision of both balance, public security and protection of fundamental rights.

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