



New passport only with fingerprint

Facts of the case

Mr Weiss applied to the competent municipal department for a new passport, but at the same time, he refused to obtain his fingerprints.

The city subsequently refused to issue a new passport. Mr Weiss complains against this practice, in particular he considers EU Regulation No 2252/2004, which introduced the obligation to collect the fingerprints of persons applying for a passport, as invalid.

Legal framework

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

Article 7: Member States shall provide that personal data may be processed only if:
(e) processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed;

Council Regulation (EC) No 2252/2004 of 13 December 2004 on standards for security features and biometrics in passports and travel documents issued by Member States

Recitals 2 to 4 in the preamble to Regulation No 2252/2004 state:

- ‘(2) Minimum security standards for passports were introduced by a Resolution of the representatives of the Governments of the Member States (...) in order to achieve enhanced harmonised security standards for passports and travel documents to protect against falsification. At the same time biometric identifiers should be integrated in the passport or travel document in order to establish a reliable link between the genuine holder and the document.

Questions

- (1) Do you consider the Charter applicable in this case?
- (2) Which articles of the Charter do you think are relevant for the case?
 - a. Which reasons of justifications for a violation could be considered?
 - b. How could they be invoked successfully?



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