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# Standing Committee on Citizenship and Immigration

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EVIDENCE

**Tuesday, April 3, 2012**

—  
**Chair**

**Mr. David Tilson**



## Standing Committee on Citizenship and Immigration

Tuesday, April 3, 2012

•(1000)

[English]

**The Chair (Mr. David Tilson (Dufferin—Caledon, CPC)):** This is the Standing Committee on Citizenship and Immigration, meeting number 30, Tuesday, April 3, 2012.

We have a video conference from Germany. From the Federal Ministry of the Interior of Germany, we have Mr. Christian Klos, the Head of Unit Immigration Law. We have Corinna Richard, Deputy Head of Unit Immigration Law. And we have Mr. Roland Brumberg, Counsellor of Unit Immigration Law.

Good morning, and welcome. We thank you very much for agreeing to speak to us.

Mr. Klos, please go ahead.

**Mr. Christian Klos (Head of Unit Immigration Law, Federal Ministry of the Interior of Germany):** Thank you very much.

Good morning, Mr. Chair and honourable members of the committee.

I would like to introduce us. My name is Christian Klos, as is already known. Within the department for migration, I am in charge of immigration law. This field contains quite a range of issues, including national legislation regarding the German residence law, European legislation on labour migration and family reunification, and various other issues, such as resettlement and other admissions for humanitarian reasons.

I would like to introduce my colleague Ms. Corinna Richard, who is in charge of an initiative that may be of interest to you, the so-called smart borders initiative of the European Union. We are in the initial phase of discussions on what could be the future immigration and border control regime in Europe. My colleague Mr. Roland Brumberg is in charge of detention, deportation, removal, and expulsion. I understand this is also something you would like to learn about.

The questions we have received from you cover a wide range of issues. What I could present to you now is the first phase, something now undergoing major political debate. There are three issues: first, major changes to the immigration law with regard to highly skilled migration; second, a permanent resettlement program here in Germany; and third, the smart borders Initiative in the framework of the European Union.

Chair, what would you like to learn from us?

•(1005)

**The Chair:** We could just jump into questions and the committee will soon tell you what they want to learn.

We'll start off with Ms. James. Ms. James is with the government, the Conservative Party.

**Ms. Roxanne James (Scarborough Centre, CPC):** Thank you, Mr. Chair, and my thanks to our guests from the Republic of Germany.

Canada is moving towards increased border security and the use of biometrics. But my first question has to do with the electronic passport that you introduced in November 2007. I believe it was to help your government prevent fraud and security risks. I'm wondering if you could talk a little bit about that. How has the electronic passport for foreigners, refugees, and stateless individuals helped your government prevent fraud and security risks?

**Mr. Christian Klos:** Thank you.

We have already had two generations of documents with biometric identifiers. On the one hand, this is the electronic passport for German citizens, and this has been introduced, as you just mentioned. In addition, at the end of last year we also introduced, following European provisions, the residence title, the electronic residence permit, which is now issued in a card form. It used to be a sticker in the passport of the person concerned, but now we have started to issue an identity card type of security document with the same security features and biometric identifiers as we had with our electronic passports.

With regard to the passports of our own nationals, we are still in the rollout phase. You cannot change the whole generation of existing passports in a few months' time, so the old passports, those without biometric identifiers, are still valid. They are valid for up to ten years. From now on it will be about seven years or so for all documents to be changed to the new system.

**Ms. Roxanne James:** Could I interrupt you for a moment? We have very limited time to ask questions.

I'm wondering if you could speak specifically to how this move you did in 2007 for electronic passports and biometrics has helped to prevent fraud and security risk. Could you speak specifically to how it's improved within Germany by moving to those two measures—not necessarily the background, but how it has actually improved or prevented fraud and security risk in Germany?

**Mr. Christian Klos:** We already had quite secure documents before, but of course the direct comparison between the information contained in the chip, the visible information on the passport itself, and the person at the control post enhanced the security enormously.

It's much more difficult and requires a lot of knowledge to actually manipulate it. I'm not informed about any successful attempt to tamper with the information stored on the chip. This is a complete new dimension in the field of document security.

●(1010)

**Ms. Roxanne James:** Thank you.

I'm wondering what type of pre-screening is done using the electronic passport. What pre-screening is done with that specifically?

**Mr. Christian Klos:** What do you mean by pre-screening in this context?

**Ms. Roxanne James:** For example, what is it you're checking for? You've moved to the electronic passport and you're using biometrics. What is it you're screening for?

**Mr. Christian Klos:** The issuance of the passports follows the registration in the public registry of each municipality. There are clear identity checks before issuance of the electronic passport. It's part of the whole issuance process that there are identity checks before the electronic passport is issued so it can be guaranteed that the passport holder is indeed the person registered in the local municipality.

**Ms. Roxanne James:** Thank you very much.

We've had other witnesses talk about it being great to do biometrics so you know that who is arriving in your country is actually who applied to come to your country. In addition, if the person is an individual you do not want to come in and then they show up at your border but you haven't been able to check his biometric data with any other country, the whole aspect of being able to cross-check databases with other countries is critical.

I'm wondering what other countries you share your biometric data with. What countries do you cross-check with so you can ensure that when you're checking someone's identity you can not only verify who arrives, but also that the person is someone you want to admit into your country?

**Mr. Christian Klos:** You are now mentioning another subject, which is the use of biometric information in the entry and exit system of Germany. I assume you're fully aware that we live in a hybrid system, so to speak. We have a European system of security. There are European systems of immigration and admission control in place that already make use of the biometric identifiers. There's only one system, which has been in place for some years now, and this is the Eurodac system for the identification and registration of asylum seekers.

Second, we now have in the rollout phase the so-called visa information system. The rollout has just started with some countries in North Africa, so we have little information and little experience with that. It will allow us to identify people with the use of biometric identifiers. We will use fingerprints and passport pictures. But we do not have experience yet. This will allow us to identify all members of

countries with visa applications in their countries or when they arrive at the border.

**The Chair:** Thank you, Mr. Klos.

The next person is the critic for the New Democratic Party, the official opposition, Mr. Davies.

**Mr. Don Davies (Vancouver Kingsway, NDP):** Thank you, Mr. Chairman.

Thank you for being with us here today.

Currently before Parliament in Canada is a bill that, if passed, would require the mandatory detention of refugees who come to Canada by irregular means. Those are refugees not coming through the United Nations program; rather, they just arrive at our borders.

Does Germany have a policy of mandatory detention of refugees who arrive by irregular movement? And if so, how long is that detention?

**Mr. Christian Klos:** Actually, we do not have mandatory detention of asylum seekers. We have a different system.

Persons apply for asylum, and then they are attributed to particular federal states. We have a federal country. They are attributed to a specific federal state. Within this federal state, this person is required to live in a certain area, a certain district. He or she is actually required to live in this particular area. There are criminal law provisions forcing this person to stay there. Social contributions are only paid in this district, which ensures that the person does not travel around Germany. But they are free to move within the area.

●(1015)

**Mr. Don Davies:** Thank you.

Are they allowed to work?

**Mr. Christian Klos:** They are not allowed to work within the first year of their presence in Germany.

**Mr. Don Davies:** Do they receive any support from the government of Germany? How are they living?

**Mr. Christian Klos:** Sure. There's full accommodation for these persons. They get food. They get a certain minor allowance. The costs of living are fully covered by the authorities.

**Mr. Don Davies:** Thank you.

Do you have any policy on the detention of children? Given what you said, does Germany detain children who are seeking asylum?

**Mr. Christian Klos:** For children, it's the same as I just said. They are part of the normal process, of course. These are vulnerable persons. Therefore, there's special attention given to the specific needs of children, but there is no different policy with regard to detention.

**Mr. Don Davies:** Thank you.

Does Germany have a policy that certain countries in the world are so-called safe countries and do not generally produce refugees?

**Mr. Christian Klos:** Yes. We introduced this in the early 1990s, well after the collapse of the eastern bloc. We had, in 1993, 450,000 asylum seekers a year. Therefore, the constitutional right to asylum needed to be adjusted. Parallel to the Geneva Convention, we have the constitutional right, and within this provision we have changed the law and have introduced a list of safe countries of first asylum.

**Mr. Don Davies:** I'd like to talk a little bit about the Roma. I know it's a sensitive subject, particularly in Germany, given the history of Germany during World War II. I understand that the Roma were among the groups of people who were targeted by the state. They were imprisoned and sent to concentration camps and the gas chambers.

Can you tell us what the position of Germany is with respect to the Roma coming into Germany? Do you have any particular policy on whether the Roma are or are not genuine refugee seekers?

**Mr. Christian Klos:** There is no general assessment that the Roma are refugees. It is an individual assessment and has nothing to do with the ethnic background of a person. So if they are Roma and apply for asylum, they go through the procedure and are evaluated on individual grounds. There is no general policy on the Roma, apart from the normal policy with respect to minority rights.

Here there is certain support, but it has nothing to do with immigration control. It is just against the background of minority rights. So it's always regarded against the background of the individual case and the nationality of the person concerned. Since the Roma live in the Balkans in various countries, or come from various countries, their country of origin and nationality are always relevant. The normal rules apply.

**Mr. Don Davies:** Thank you.

To change the subject a bit, does Germany check the health condition of people entering your country? If so, what health checks do you do on people seeking to become permanent residents of Germany?

**Mr. Christian Klos:** If there are indications that a person carries a disease, there is the possibility of refusing entry and residence, of course, but that is not part of the normal scheme on long-term residence here in Germany.

There will be a little change with regard to a very small group of resettled refugees. I know that your country has a major resettlement scheme. For our settled refugees there are health checks in advance, but this does not necessarily prevent these people from coming to Germany.

• (1020)

**Mr. Don Davies:** When you do the checks, do you know what diseases or conditions you are checking for?

**Mr. Christian Klos:** There is a general health check of the overall condition of the person concerned. To give you a number, we are in the very initial phase of the permanent resettlement program, and this concerns only 300 people a year. This is just a very early stage, and I don't think it is worth elaborating on it.

**The Chair:** Thank you, Mr. Klos.

The next person is Mr. Lamoureux, who represents another opposition party, the Liberal Party. Mr. Lamoureux.

**Mr. Kevin Lamoureux (Winnipeg North, Lib.):** Thank you, Mr. Chair.

Good morning, or good evening, depending upon what time it is in Germany.

My first question is on the tracking of people who enter into Germany, whether it's to work or visit. Does Germany as a state track individuals who are entering? Probably more importantly, do you have a mechanism in place to find out if people who are going to Germany are leaving the country in a timely fashion, as per why they might have entered the country in the first place?

**Mr. Christian Klos:** Thank you for the question.

For the time being we have only the classical way of determining whether a person has overstayed his or her visa, and that is a stamp in the passport, which allows us to actually control, if the passport is available, whether the person is overstaying or not.

In general, with the introduction of the aforementioned visa information system, we will be able to identify people via biometric identifiers and to find out whether someone has overstayed a visa. This was one of the main reasons for introducing this system: to be able to identify people without passports, because usually undocumented or irregular migrants do not present their documents. This will be the first possibility for us to identify people without documents, using biometric identifiers.

There is still a gap, and there are political discussions at the European level now on a planned entry-and-exit system, as the visa information system will cover only those who have applied for a visa, those who have entered illegally, or those whose visa has been waived. For this group of people we are not in position, for the time being, to identify who the person is and whether the person is undocumented or their residence is legal. Of course, if there is no documentation that will indicate to us that the residence is illegal, but it will be difficult to identify the nationality or the identity.

**Mr. Kevin Lamoureux:** I'm curious as to whether or not Germany believes it has an issue with regard to individuals who are in Germany without legal status.

And finally, how is it determined which country is safe for the purposes of the safe country list?

If you could comment on both of those questions that would be great.

**Mr. Christian Klos:** Illegal immigration is of major concern in Germany and in all European countries. Therefore we do of course try to send people back to their countries of origin—or, if possible, to the country of transit if readmission agreements are in force. Therefore there is a common effort, and it is one of the major tasks of immigration control to actually remove people illegally residing in Germany and the rest of the European Union.

As regards your second question, there are conditions to be met to be on this list. It effectively enforces the Geneva Convention on refugees and the European Convention on Human Rights in order to allow that this is constitutional. Our constitutional court has upheld the decision by the German Parliament to define such a list and to have such a list. Therefore, it has been established practice for more than 15 years.

•(1025)

**Mr. Kevin Lamoureux:** How long, on average, would it take to deport a person who is found to be there illegally or without status?

**Mr. Christian Klos:** Well, this is difficult to say, actually, and unfortunately the first half of your sentence was cut, so I would prefer if you could once again ask your question, because I heard only a bit of it.

**Mr. Kevin Lamoureux:** How long, on average, does it take to deport someone once you've identified them as someone who shouldn't be in the country?

**Mr. Christian Klos:** It's difficult to say an average time, because the federal states are in charge of enforcing the residence law, and therefore it's always difficult for us to provide figures. This is not a category we actually look at. It differs very much according to whether or not the person is documented.

It's easiest when we find these people at the airports, and then they can be sent directly back to the country of departure. But of course if someone is undocumented, it can take months or even years to return this person, and sometimes it's not possible at all if we do not manage to actually identify the nationality of the person.

**The Chair:** Thank you, Mr. Klos.

The next person is Mr. Wilks, who is with the Conservative Party in the government.

**Mr. David Wilks (Kootenay—Columbia, CPC):** Thank you, Mr. Chair.

Thank you for being with us this evening in Germany.

Extending upon what Mr. Lamoureux said, I'm curious as to how the electronic travelling authorization helps you prevent people who are inadmissible to Germany from entering.

**Mr. Christian Klos:** As a matter of fact—and here I speak as a civil servant of the ministry of the interior—unfortunately we do not have something like an ETA, as other countries have introduced. Therefore I cannot answer this question.

**Mr. David Wilks:** Moving on, then, can you please explain the process for determining which group memberships would result in someone being inadmissible to Germany? And from that, how many groups has Germany listed as security threats? Is there an exhaustive list you can provide of which groups you deem to be inadmissible?

**Mr. Christian Klos:** There are different groups of persons who are not admitted to the country, and here I name a list you should also have in Canada. This is the United Nations decisions as regards the list of persons under the suspicion of terrorism. This is of course a regime we will also fulfill. In addition, we do have at the European level the so-called Schengen information system, where, on an individual basis, are stored the names of persons who are inadmissible due to previous criminal convictions or security intelligence that we have. If the name of a person is stored in the Schengen information system, that person is refused entry.

In addition to this, we also have country lists where we look more closely into the files with our security authorities, both police and intelligence, to have better information about individuals applying for visas.

**Mr. David Wilks:** When a group is deemed inadmissible, is everyone who is a member of that group inadmissible, and if not, why not? And if not, who determines whether the member of that group should be inadmissible?

**Mr. Christian Klos:** Actually, I wouldn't describe it as a group inadmissibility. It's always an individual inadmissibility. So we have for certain countries a greater security concern, but we check every individual's application on its own merit, and therefore there are no refusals on group considerations.

•(1030)

**Mr. David Wilks:** What you're saying then is that if there was, for lack of a better word, a terrorism group that was identified, let's say by the UN, although the group may be inadmissible, a person within that group could be admissible?

**Mr. Christian Klos:** Usually if we have intelligence that this person belongs to a specific group, any application will be rejected. It might be, however, that for intelligence and security reasons we issue a visa. For example, for covert operations and to see and to detect terrorist networks in the country, we could allow the entry for surveillance and other issues, but security and intelligence will follow this person after entry.

**Mr. David Wilks:** Thank you.

To change the topic just a bit, do your pre-screening measures have an effect on a person's ability to move through the visa queue faster? And if Canada enhanced its pre-screening measures, do you think it would help legitimize visitors easily being able to visit Canada while keeping illegal applicants out?

**Mr. Christian Klos:** The acceleration of certain visa categories is a subject of the political debate. We have a pilot project at Frankfurt airport, for example, where we have a partly automated border control and an iris scan is used for frequent travellers. These persons can be processed quickly through the immigration controls. But this is a pilot project. Usually there are no preferences. There might be lines in the air traffic for business and first-class passengers. This is the practice in some airports, but legally speaking, all passengers can use all counters equally, so there is no distinction made.

**Mr. David Wilks:** You had mentioned, with regard to iris scans... In Canada we have an agreement with the United States with regard to a Nexus card that allows quicker access through border crossings. Does Germany have some system such as this with countries of the European Union?

**Mr. Christian Klos:** Not yet, but in the context of the so-called smart border initiative, which I mentioned before, it is also envisaged to introduce a system called the registered travellers program. Within this RTP, as we call it, will be the possibility for bona fide travellers to easily access the European Union. But we are in a very early stage of this political consideration at the European level.

**The Chair:** Thank you.

**Mr. David Wilks:** Thank you very much, Mr. Chair.

**The Chair:** Thank you, Mr. Wilks.

Madame Groguhé.

[*Translation*]

**Mrs. Sadia Groguhé (Saint-Lambert, NDP):** Thank you, Mr. Chair.

Thanks to you all for being with us today.

I have a question regarding failed refugee claimants. Is an appeal procedure provided for people like that?

[*English*]

**Mr. Christian Klos:** According to constitutional law there is always the possibility to appeal the rejection of an asylum case. It goes through two or three instances, so it might take some time, but of course this is ensured due to constitutional reasons.

[*Translation*]

**Mrs. Sadia Groguhé:** So it is guaranteed under the Constitution.

There was mention of an accelerated asylum procedure for people arriving at airports without the required documentation. Could you tell us a bit about this accelerated procedure?

• (1035)

[*English*]

**Mr. Christian Klos:** Yes, we have a special procedure at airports, although due to European provision, the differences between both are not that big. Usually we identify the nationality of the persons concerned, and persons with manifestly unfounded applications can be kept at the airport. The asylum procedure is done quickly by judges of the local administrative court. It's a way of accelerating asylum procedures in clear cases of manifestly unfounded asylum applications.

[*Translation*]

**Mrs. Sadia Groguhé:** Could you give us an idea of the approximate timeframe within which these granting procedures take place?

[*English*]

**Mr. Christian Klos:** As far as I'm informed, the average time.... If you want to have more detailed information, please send me something in writing, but usually it's done within one week.

[*Translation*]

**Mrs. Sadia Groguhé:** I will definitely send you something.

As for the biometric system, we know that there can be glitches sometimes. What remedy do the victims of mistakes like that have, and what opportunities would they have to access the Canadian justice system given their status as foreigners?

[*English*]

**Mr. Christian Klos:** I'm not quite sure whether I got the question. I'll respond in the way I understood it.

Usually we do not rely only on biometric identifiers. We always take into account the classic way, the documents of the persons concerned. So we do not rely on electronic systems. These people are documented, and this is always the means of proof, which is valid and will be taken into consideration.

[*Translation*]

**Mrs. Sadia Groguhé:** The committee has been told that gathering data abroad would help visa officers make more informed decisions. What is your experience in the use of information in this way?

[*English*]

**Mr. Christian Klos:** Intelligence, as I mentioned before, is relevant to particular countries. The European Union member states have a list of these countries. Prior to a visa issuance, all member states are requested to check their information about specific visa applicants. They have one week's time to report back to the visa office where the application is lodged. Then a decision can be taken.

If there isn't any information, then the visa can be issued. If there are security concerns, the visa will be denied. Or as I mentioned before, the visa might be issued, but the entry will be controlled.

I think this covers the question.

**The Chair:** Mr. Shory.

**Mr. Devinder Shory (Calgary Northeast, CPC):** Thank you, Mr. Chair.

Thank you, witnesses, for giving some of your afternoon to this committee. It will be helpful.

I'll follow up on the biometric passport and identifiers. I understand that we in Canada are very concerned about human smuggling, which could bring some terrorists and criminals into our country as well. I want to get your input on those kinds of issues.

Has the Government of Germany taken, or is it taking, some steps to ensure that genuine immigrants and refugees can come to Germany while they are able to keep all those criminals and terrorists out of the country? Are there any suggestions you can make to this committee?

**Mr. Christian Klos:** Thank you for the question.

I think this is the challenge all the countries face that have a certain interest in people being able to work and live. Therefore, I think the problems in Canada are the same as in Germany.

We always try to clearly distinguish between those who want to enter legally and others. And for those who are here under visa obligations, the visa offices of the European Union are mainly compatible with the German ones. Here we clearly check whether the application is on good grounds and we issue a visa. The entry's then without further problems.

Of course, we always discover fraud. We discover misuse of the system. And here we have various techniques to identify it first. It's a long list, actually. It's about document security, assessment, profiling. This is the part of the visa office, and then of course it's about effective border control. There are trained personnel who filter those who come with no good reasons. Within the country there are of course fewer controls, as we do have an area here in Europe without inner border controls. There are only random checks at airports, at train stations, and then so on and so forth.

It's difficult. It's a mass phenomenon. There's no intention to introduce a major control regime, but there are certain places where you can actually find them. This is if it comes to work or residency permits. The administration here has a certain obligation to find out whether the person is eligible to work or for a prolongation of the visa. It's a whole range of measures, and also international cooperation, that are conducive to this end.

●(1040)

**Mr. Devinder Shory:** I have another question on this subject.

You have started using biometric passports and identifiers. Our minister has also said that soon we will be going in that direction. Do you have any data or numbers, or ideas at least, on whether you think that after the introduction of biometric passports and other identifiers you have been able to reduce the use of fake documents and identities people may have been using before you started this program? Has there been any reduction of those kinds of cases, or has it not mattered?

**Mr. Christian Klos:** I can clearly confirm the assessment that this has improved document security.

As I mentioned before, ID cards and German passports already had high document security. However, there have been trials to tamper with them or manipulate them and they were more or less successful, but in few numbers. But with this additional dimension

and technical solution, for the time being it appears—let me put it that way—impossible to alter or manipulate German or European passports that follow the same document security.

This passport allows, really, the one-to-one check of the person at the border post. If it is supported by modern software, you can also exclude that look-alikes can actually use passports. This additional layer of security is really worth the effort.

**The Chair:** Thank you.

Mr. Klos, that concludes our time with you today. I want to thank you and your colleagues for taking the time to speak with us about the process in Germany. It's been very helpful for our study concerning security.

I also want to tell you how impressed we are to see a Canadian flag and a German flag standing side by side. Thank you very much.

**Mr. Christian Klos:** Thank you very much. It was indeed a pleasure.

I wish you all the best.

**The Chair:** Thank you, sir.

Thank you to all.

This meeting is adjourned.

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