

EU/Iceland/Norway agreement: surrender procedure

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PURPOSE: to conclude the Agreement between the EU and Iceland and Norway on the surrender procedure between the Member States of the EU and Iceland and Norway.

PROPOSED ACT: Council Decision.

BACKGROUND: following the opening of negotiations with Iceland and Norway with a view to extending to these countries the provisions of the 1996 EU Convention on Extradition which are not linked to Schengen, the mission statement was updated in 2002 after it was agreed that extradition within the EU would be replaced by a **surrender procedure under the European arrest warrant**. Despite the decision not to link the European arrest warrant to Schengen, the Council agreed that it would be useful to apply the surrender procedure model to the Schengen countries, given their privileged partnership with the EU Member States.

The Council authorised the Presidency of the Council to negotiate Agreements with Norway and Iceland on judicial cooperation in criminal matters on the basis of Articles 24 and 38 of the Treaty on European Union. The Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the surrender procedure between the Member States of the European Union and Iceland and Norway was signed on 28 June 2006, subject to its conclusion at a later date.

CONTENT: the above-mentioned Agreement is aimed at improving the surrender procedure for the purpose of prosecution or execution of sentence between, on the one hand, the Member States and, on the other hand, Norway and Iceland, by taking account of the terms of the Convention of 27 September 1996 relating to extradition between the Member States of the EU as minimum standards.

In accordance with the provisions of the Agreement, the contracting parties will ensure that the extradition system will be based on a mechanism of surrender pursuant to an arrest warrant. An arrest warrant may be issued for acts punishable by the law of the issuing state by a custodial sentence or a detention order for a maximum period of at least 12 months or, where a sentence has been passed or a detention order has been made, for sentences of at least four months.

Procedure: following the entry into force of the Lisbon Treaty on 1 December 2009, the procedures to be followed for the conclusion of the Agreement are governed by Article 218 of the Treaty on the Functioning of the European Union. The Agreement was signed already 3 years ago and therefore it should now be concluded as soon as possible. It is for this reason that the Commission proposes to conclude the Agreement. It recommends that the Council, after obtaining the consent of the European Parliament, adopt a decision concluding the Agreement. It should be noted that in accordance with Article 218(6)(a) of the Treaty on the Functioning of the European Union, it is provided that in the case of agreements covering fields to which the ordinary legislative procedure applies, the Council shall adopt a decision concluding the agreement, **after obtaining the consent of the European Parliament**.

Territorial application: the UK and Ireland have notified their wish to take part in the adoption of this Decision. Denmark will not be taking part in the adoption of this Decision and therefore is not bound by the Agreement or subject to its application.