EU/Iceland/Norway agreement: cross-border cooperation in combatting terrorism and cross-border crime

2009/0191(NLE) - 26/07/2010 - Final act

PURPOSE: to the conclude the Agreement between the EU and Iceland and Norway on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA and the Annex thereto.

LEGISLATIVE ACT: Council Decision 2010/482/EU on the conclusion of the Agreement between the European Union and Iceland and Norway on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross- border cooperation, particularly in combating terrorism and cross-border crime and Council Decision 2008/616/JHA on the implementation of Decision 2008/615 /JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto.

CONTENT: this Decision concludes the above-mentioned Agreement between the EU and Iceland and Norway which was signed on 30 November 2009, subject to its conclusion. It is recalled that with the entry into force of the Treaty of Lisbon on 1 December 2009, the procedures to be followed by the Union in order to conclude the Agreement are governed by Article 218 of the Treaty on the Functioning of the European Union.

The main elements of the Agreement, initialled by the parties on 28 November 2008 in Brussels, can be summarised as follows:

Purpose: the Agreement states that certain provisions of decisions 2008/615/JHA and 2008/616/JHA shall be applicable to Iceland and Norway. These provisions are designed to improve the exchange of information whereby Member States of the European Union and Iceland and Norway grant one another access rights to their automated DNA analysis files, automated dactyloscopic identification systems and vehicle registration data.

Principles: rules shall be based on networking States' national databases. Subject to certain conditions, States should be able to supply personal and non-personal data in order to improve the exchange of information with a view to preventing criminal offences and maintaining public order and security in connection with major events with a cross-border dimension. Cross-border data comparison will open up a new dimension in crime fighting. These provisions would considerably speed up existing procedures enabling Member States, Iceland and Norway to find out whether another State, and if so, which, has the information it needs.

Hit/no hit system: the hit/no hit system provides for a structure of comparing anonymous profiles, where additional personal data is exchanged only after a hit, the supply and receipt of which is governed by national law, including the legal assistance rules. This set-up guarantees an adequate system of data protection, it being understood that the supply of personal data to another State requires an adequate level of data protection on the part of the receiving State.

Data protection: aware of the comprehensive exchange of information and data resulting from closer police and judicial cooperation, this Agreement seeks to warrant an appropriate level of data protection. It

observes the level of protection designed for the processing of personal data in the Council of Europe Convention of 28 January 1981 for the Protection of Individuals with regard to Automatic Processing of Personal Data, the Additional Protocol of 8 November 2001 to the Convention and the principles of Recommendation No R (87) 15 of the Council of Europe Regulating the Use of Personal Data in the Police Sector.

Other technical elements of the Agreement can be summarised as follows: (i) uniform application and interpretation of provisions of Decisions 2008/615/JHA and 2008/616/JHA by the parties; (ii) dispute settlement procedure to be set up between Iceland or Norway and a Member State concerning the interpretation and application of the Agreement; (iii) procedure to be put place in case of amendments brought made to the decisions.

The Agreement also includes the following:

- a review clause of the Agreement no later than five years after its entry into force;
- a clause to maintain the application of bilateral and multilateral Agreements or arrangements on cross-border cooperation with Member States that are in force on the date this Agreement is adopted in so far as such agreements or arrangements are not incompatible with the objectives of this Agreement. Iceland and Norway shall notify the depository of any such agreements or arrangements which will continue to apply;
- a provisional application clause as of the time of the signature of the Agreement;
- a declaration to be adopted at the occasion of the signature of the Agreement which states that the implementation of the DNA, dactyloscopic and vehicle registration data exchange pursuant to the Agreement will require that Iceland and Norway set up bilateral connections for each of these data categories with each of the Member States. To enable and facilitate this work, Iceland and Norway will be provided with all the available documentation, software products and contact lists. These countries will have the opportunity to set up an informal partnership with Member States that have already implemented such data exchange, with a view to sharing experiences and getting practical and technical support. The Icelandic and Norwegian experts can contact at any time the Presidency of the Council, the Commission and/or leading experts in these matters to obtain information, clarification or any other support. These experts may be invited to attend on an ad hoc basis meetings where Member States' experts discuss within the Council technical aspects of the DNA, dactyloscopic or vehicle registration data exchange which are directly relevant to the proper application of the content of the aforementioned Council Decisions by Iceland and/or Norway.

Territorial provisions: in accordance with the Protocol on the Position of the United Kingdom and Ireland in respect of the Area of Freedom, Security and Justice, annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, these Member States have notified their wish to take part in the adoption and application of this Decision. Denmark shall not participate in the adoption of this Decision and is not bound by it or subject to its application.

ENTRY INTO FORCE: the Decision shall enter into force on 26 July 2010. The Agreement shall enter into force when the necessary procedures have been completed.