Automated data exchange with regard to dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland

2016/0820(CNS) - 13/12/2016 - Legislative proposal

PURPOSE: to authorise Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland to continue to receive and supply of personal data for the purpose of automated searching of dactyloscopic data (digital fingerprints).

PROPOSED ACT: Council Implementing Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in **combating terrorism and cross-border crime**, confers upon the Council implementing powers with a view to adopting measures necessary to implement that Decision, in particular as regards the receipt and supply of personal data provided for under that Decision.

The supply of personal data provided for under that Decision may not take place until the general provisions on data protection have been implemented in the national law of the territories of the Member States involved in such supply.

Council Decision 2008/616/JHA provides that the verification that the condition with respect to automated data exchange has been met is to be done on the basis of an evaluation report based on a questionnaire, an evaluation visit and a pilot run.

The overall evaluation reports, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning dactyloscopic data in Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland have been presented to the Council.

On the basis of these evaluation reports, Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434 /EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU authorised Slovakia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland to continue to be entitled to receive and supply personal data for the purpose of automated searching of dactyloscopic data.

In its judgment of 22 September, the **Court of Justice annulled the above-mentioned Decisions** on the basis that they are vitiated by a procedural defect. With a view to ensuring the legal certainty of the receipt and supply of personal data with regard to the Member States concerned, those Decisions should be replaced by this present draft Decision.

CONTENT: the proposed Council implementing Decision seeks, for the purpose of automated searching of dactyloscopic data, to **authorise Slovakia, Bulgaria, France, Czech Republic, Lithuania, the**

Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland to continue to be entitled to receive and supply personal data pursuant to Decision 2008/615/JHA.

Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446 /EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU cease to produce effects as from the date of entry into force of this Decision, without prejudice to the validity of automated data exchange carried out pursuant to those Decisions by the Member States.

Member States which obtained personal data pursuant to these Decisions shall continue to be entitled to further process those data at national level or between Member States for the purposes laid down in Article 26 of Decision 2008/615/JHA.

The United Kingdom and Ireland shall participate in the adoption of the proposed Decision.