EC/Denmark Agreement on the establishment of the State responsible for examining a request for asylum and 'Eurodac' for the comparison of fingerprints for law enforcement purposes. Protocol

2018/0423(NLE) - 27/02/2019 - Legislative proposal

PURPOSE: to enable Denmark to participate in the law enforcement access components of Eurodac in order to support and strengthen police cooperation between the competent authorities of the Member States and those of Denmark for the prevention, detection and investigation of terrorist offences and other serious criminal offences.

PROPOSED ACT: Council decision.

ROLE OF THE EUROPEAN PARLIAMENT: Council may adopt the act only if Parliament has given its consent to the act.

BACKGROUND: in accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark does not take part in the adoption of Title V acquis and therefore does not participate in the Regulation (EU) No. 603/2013, which allows law enforcement authorities to consult Eurodac for the purpose of preventing, detecting and investigating terrorist offences and other serious criminal offences.

On 8 March 2006, the Agreement between the European Community and Denmark concerning the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged by a third-country national in Denmark or any other Member State of the European Union and the 'Eurodac' system for the comparison of fingerprints for the effective application of the Dublin Convention was concluded. However, access to Eurodac for law enforcement purposes does not fall within the scope of that agreement.

At a meeting on 14 May 2014 with representatives of the Commission, Denmark and the associated countries confirmed their interest in entering into negotiations with the European Union to extend the law enforcement provisions of the Regulation (EU) No. 603/2013 to them via an international agreement.

The negotiations have been finalised and an Agreement in the form of a Protocol to the Agreement of 8 March 2006, extending the application of the Agreement of 8 March 2006 to law enforcement was initialled.

CONTENT: the draft Council Decision aims to approve, on behalf of the Union, the Protocol to the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention, extending that agreement to law enforcement.

The Protocol establishes the application of Regulation (EU) No 603/2013 to Denmark regarding access to Eurodac for law enforcement purposes.

The Protocol:

- enables the designated law enforcement authorities of the other participating States and Europol to request a comparison of fingerprint data against the data transmitted to the Eurodac Central System by Denmark when trying to establish the identity of, or obtain more information on, a terrorist or serious crime suspect;;

- enables the designated law enforcement authorities of Denmark to request a comparison of fingerprint data against the data transmitted to the Eurodac Central System by the other participating States;

- guarantees that the current EU level of protection of personal data is applicable to the processing of personal data pursuant to the Protocol by the authorities of Denmark and of the Member States;

- conditions the access to Eurodac for law enforcement purposes by Denmark by prior legal and technical implementation of Decision 2008/615/JHA with regard to dactyloscopic data.

The Protocol provides that the mechanisms regarding amendments provided for in the Agreement of 8 March 2006 should apply to all amendments regarding the access to Eurodac for law enforcement purposes.