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EUROPEAN COMMISSION

Brussels, 17.12.2009  
COM(2009) 707 final

2009/0191 (NLE)

Proposal for a

### **COUNCIL DECISION**

**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 combatting 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 combatting terrorism and cross-border crime, and the Annex thereto**

## **EXPLANATORY MEMORANDUM**

- The Justice and Home Affairs Council of 21 September 2009 authorised the Presidency of the Council of the European Union to sign an 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. The Agreement was signed by the Parties, Iceland being the last to sign on 30 November 2009 and some provisions are applied provisionally as from that date.
- The purpose of the Agreement is to enable Iceland and Norway to join the EU Member States in the exchange of DNA, fingerprint and vehicle registration data, the exchange of information in connection with major events with a cross-border dimension and the supply of information aimed at preventing terrorist offences. Such exchanges take place on the basis of the so-called Prüm Decision (Council Decision 2008/615/JHA) and the implementing Decision (Council Decision 2008/616/JHA). These decisions aim to improve the exchange of certain types of information between authorities responsible for preventing and combating criminal offences.

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- The European Union supports Iceland and Norway in their efforts to prevent and combat terrorism and other cross-border crime while respecting fundamental rights, and notably the protection of personal data. 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, aims to ensure full respect for fundamental rights enshrined in Article 6 of the Treaty on European Union and for the principles of proportionality and necessity regarding the right to respect for private and family life and the protection of personal data as set out in Articles 7 and 8 of the Charter of Fundamental Rights of the European Union.
- Article 218(6)(a) of the Treaty on the Functioning of the European Union states 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.

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- The Commission therefore recommends to the Council, after obtaining the consent of the European Parliament, to adopt a decision concluding 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.

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## COUNCIL DECISION

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 82(1)(d) and 87(2)(a), in conjunction with Article 218 (6)(a) thereof,

Having regard to the proposal from the Commission,

Having regard to the consent of the European Parliament<sup>1</sup>,

Whereas:

- (1) On 24 October 2008 the Council authorised the Presidency of the Council, assisted by the Commission, to open negotiations for an 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.
- (2) In accordance with Council Decision 2009/XXX/JHA of 21 September 2009<sup>2</sup> the Agreement was signed on 30 November 2009, subject to its conclusion at a later date.
- (3) In accordance with Article 8 some provisions of the Agreement are applied on a provisional basis, as from the date of signature.
- (4) The Agreement has not yet been concluded. With the entry into force of the Lisbon Treaty on 1 December 2009, the procedures to be followed to that end by the European Union are governed by Article 218 of the Treaty on the Functioning of the European Union.

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> Not yet published.

- (5) The Agreement should be concluded.
- (6) [In accordance with Article 3 of 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, the United Kingdom and Ireland take part in the adoption of this Decision.]
- (7) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark annexed to the Treaty on European Union and the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by the Agreement or subject to its application,

HAS ADOPTED THIS DECISION:

*Article 1*

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 is hereby concluded.

The text of the Agreement to be concluded is attached to this Decision.

*Article 2*

The President of the Council shall designate the person empowered to proceed, on behalf of the European Union, to the deposit of the instrument of approval provided for in Article 8(1) of the Agreement, in order to express the consent of the European Union to be bound by the Agreement.

*Article 3*

This Decision shall enter into force on the day of its adoption. It shall be published in the *Official Journal of the European Union*.

The date of entry into force of the Agreement shall be published in the *Official Journal of the European Union*.

Done at Brussels,

*For the Council  
The President*

