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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

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## II

(Acts whose publication is not obligatory)

## COUNCIL

## COUNCIL DECISION

of 17 December 2003

**on the signing of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto**

(2004/79/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and in particular Articles 24 and 38 thereof,

Whereas:

- (1) On 29 May 2000 the Council established, in accordance with Article 34(2)(d) of the Treaty on European Union, the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(1)</sup> (hereinafter: 'the EU Mutual Assistance Convention').
- (2) Article 2(1) of that Convention determines its provisions which constitute a development of the Schengen acquis within the meaning of the Agreement of 18 May 1999 concluded by the Council of the European Union with the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the application, implementation and development of the Schengen acquis <sup>(2)</sup>.
- (3) On 16 October 2001 the Council established, in accordance with Article 34(2)(d) of the Treaty on European Union, the Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union <sup>(3)</sup> (hereinafter: 'the EU Mutual Assistance Protocol').
- (4) Article 15 of that Protocol determines that Article 8 thereof constitutes a development of the Schengen acquis within the meaning of the Agreement, concluded by the Council of the European Union with the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the application, implementation and development of the Schengen acquis.
- (5) Pursuant to the terms of Article 8 of that Agreement, the Republic of Iceland and the Kingdom of Norway will become bound by the content of those provisions of the EU Mutual Assistance Convention in their mutual relations and in their relations with the Member States of the European Union.
- (6) Following the Council Decision of 19 December 2002 authorising the Presidency of the Council to open negotiations with a view to the application of certain provisions in the field of judicial cooperation in criminal matters on the basis of Articles 24 and 38 of the Treaty on European Union, the Presidency, assisted by the Commission, negotiated an agreement with the Republic of Iceland and the Kingdom of Norway, according to which the content of the other substantive provisions of the EU Mutual Assistance Convention and the EU Mutual Assistance Protocol will also become applicable to the Republic of Iceland and the Kingdom of Norway in their mutual relations and in their relations with the Member States of the European Union.
- (7) That Agreement should be signed on behalf of the European Union, subject to its subsequent conclusion,

<sup>(1)</sup> OJ C 197, 12.7.2000, p. 1.

<sup>(2)</sup> OJ L 176, 10.7.1999, p. 36.

<sup>(3)</sup> C 326, 21.11.2001, p. 1.

HAS DECIDED AS FOLLOWS:

*Article 2*

The President of the Council is hereby authorised to designate the person(s) empowered to sign the Agreement subject to its conclusion.

*Article 1*

The signing of the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between Member States of the European Union and the 2001 Protocol thereto is hereby approved on behalf of the European Union, subject to the Council Decision concerning the conclusion of the said Agreement.

The text of the Agreement is attached to this Decision.

*Article 3*

This Decision and the Agreement attached thereto shall be published in the *Official Journal of the European Union*.

Done at Brussels, 17 December 2003.

*For the Council*

*The President*

G. ALEMANNO

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**AGREEMENT****between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto**

THE EUROPEAN UNION,

on the one hand, and

THE REPUBLIC OF ICELAND

and

THE KINGDOM OF NORWAY,

on the other hand,

hereinafter referred to as 'the Contracting Parties',

WISHING to improve judicial cooperation in criminal matters between the Member States of the European Union and Iceland and Norway, without prejudice to the rules protecting individual freedom,

CONSIDERING that current relationships among the Contracting Parties require close cooperation in the fight against crime,

POINTING OUT the Contracting Parties' common interest in ensuring that mutual assistance between the Member States of the European Union and Iceland and Norway is provided in a fast and efficient manner compatible with the basic principles of their national law, and in compliance with the individual rights and principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed at Rome on 4 November 1950,

EXPRESSING their mutual confidence in the structure and functioning of their legal systems and in the ability of all Contracting Parties to guarantee a fair trial,

RESOLVED to supplement the European Convention on Mutual Assistance in Criminal Matters of 20 April 1959 and other Conventions in force in this area, by an Agreement between the European Union, Iceland and Norway,

RECOGNISING that the provisions of those Conventions remain applicable for all matters not covered by this Agreement,

RECALLING that this Agreement, including Annex I thereto, regulates mutual assistance in criminal matters, based on the principles of the Convention of 20 April 1959,

CONSIDERING that in Article 2 paragraph 1 of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union, and in Article 15 of the Protocol of 16 October 2001 thereto, the provisions have been identified which constitute a development of the Schengen acquis, and which therefore have been accepted by Iceland and Norway by virtue of their obligations under the Agreement of 18 May 1999 concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway on the latter's association with the application, implementation and development of the provisions of the Schengen acquis,

CONSIDERING that Iceland and Norway have expressed their wish to enter into an agreement enabling them to apply also the other provisions of the 2000 Mutual Assistance Convention and of the 2001 Protocol in their relations with the Member States of the European Union,

CONSIDERING that the European Union also considers it necessary to have such an agreement in place,

HAVE AGREED AS FOLLOWS:

*Article 1*

1. Subject to the provisions of this Agreement, the content of the following provisions of the Convention of 29 May 2000, established by the Council of the European Union in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union, hereinafter referred to as 'the EU Mutual Assistance Convention', shall be applicable in the relations between the Republic of Iceland and the Kingdom of Norway and in the mutual relations between each of these States and the Member States of the European Union:

Articles 4, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 25 and 26, as well as Articles 1 and 24 to the extent that they are relevant for any of those other Articles.

2. Subject to the provisions of this Agreement, the content of the following provisions of the Protocol of 16 October 2001, established by the Council of the European Union in accordance with Article 34 of the Treaty on European Union, to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, hereinafter referred to as 'the EU Mutual Assistance Protocol', shall be applicable in the relations between the Republic of Iceland and the Kingdom of Norway and in the mutual relations between each of these States and the Member States of the European Union:

Articles 1 (paragraphs 1 to 5), 2, 3, 4, 5, 6, 7, 9, 11 and 12.

3. The declarations made by Member States under Articles 9(6), 10(9), 14(4), 18(7) and 20(7) of the EU Mutual Assistance Convention and Article 9(2) of the EU Mutual Assistance Protocol shall also be applicable in the relations with the Republic of Iceland and the Kingdom of Norway.

*Article 2*

1. The Contracting Parties, in order to achieve the objective of arriving at as uniform an application and interpretation as possible of the provisions referred to in Article 1, shall keep under constant review the development of the case-law of the Court of Justice of the European Communities, as well as the development of the case-law of the competent courts of Iceland and Norway relating to such provisions. To this end a mechanism shall be set up to ensure regular mutual transmission of such case-law.

2. Iceland and Norway shall be entitled to submit statements of case or written observations to the Court of Justice in cases where a question has been referred to it by a court or tribunal of a Member State for a preliminary ruling concerning the interpretation of any provisions referred to in Article 1.

*Article 3*

If a request is refused, Norway or Iceland may ask the requested Member State to report to Eurojust any problem encountered concerning the execution of the request, for a possible practical solution.

*Article 4*

Any dispute between either Iceland or Norway and a Member State of the European Union regarding the interpretation or the application of this Agreement or of any of the provisions referred to in Article 1 thereof may be referred by a Party to the dispute to a meeting of representatives of the governments of the Member States of the European Union and of Iceland and Norway, with a view to its settlement within six months.

*Article 5*

The Contracting Parties agree to carry out a common review of this Agreement no later than five years after its entry into force. The review shall in particular address the practical implementation, interpretation and development of the Agreement and may also include issues such as the consequences of further development of the European Union relating to the subject matter of this Agreement.

*Article 6*

1. The Contracting Parties shall notify each other of the completion of the procedures required to express their consent to be bound to this Agreement.

2. When giving their notification under paragraph 1 or, if so provided, at any time thereafter, Iceland and Norway may make any of the declarations provided for in Articles 9(6), 10(9), 14(4), 18(7) and 20(7) of the EU Mutual Assistance Convention and Article 9(2) of the EU Mutual Assistance Protocol.

3. As far as the relevant provisions of the EU Mutual Assistance Convention are concerned, this Agreement shall enter into force on the first day of the third month following the day on which the Secretary-General of the Council of the European Union establishes that all formal requirements concerning the expression of the consent by or on behalf of the Parties to this Agreement have been fulfilled, or on the date on which the EU Mutual Assistance Convention enters into force in accordance with Article 27(3) thereof, if such date is later. As far as the relevant provisions of the EU Mutual Assistance Convention are concerned, the entry into force of this Agreement creates rights and obligations between Iceland and Norway and between Iceland, Norway and those EU Member States in respect of which the EU Mutual Assistance Convention has entered into force.

4. As far as the relevant provisions of the EU Mutual Assistance Protocol are concerned, this Agreement shall enter into force on the first day of the third month following the day on which the Secretary-General of the Council of the European Union establishes that all formal requirements concerning the expression of the consent by or on behalf of the Parties to this Agreement have been fulfilled, or on the date on which the EU Mutual Assistance Protocol enters into force in accordance with Article 13(3) thereof, if such date is later. As far as the relevant provisions of the EU Mutual Assistance Protocol are concerned, the entry into force of this Agreement creates rights and obligations between Iceland and Norway and between Iceland, Norway and those EU Member States in respect of which the EU Mutual Assistance Protocol has entered into force.

5. Subsequently, such rights and obligations shall come into being between Norway, Iceland and other EU Member States as from the dates on which the EU Mutual Assistance Convention and/or the EU Mutual Assistance Protocol enter into force for such other EU Member States.

6. This Agreement shall apply only to mutual assistance procedures initiated after the date on which it creates rights and obligations by virtue of paragraphs 3 and 4.

#### *Article 7*

Accession by new Member States of the European Union to the EU Mutual Assistance Convention and/or to the EU Mutual Assistance Protocol shall create rights and obligations under this Agreement between those new Member States and Iceland and Norway.

#### *Article 8*

1. This Agreement may be terminated by the Contracting Parties. In the event of termination by either Iceland or Norway, this Agreement shall remain in force between the European Union and the State for which it has not been terminated.

2. Termination of this Agreement pursuant to paragraph 1 shall take effect six months after the deposit of the notification of termination. Procedures for complying with requests for mutual legal assistance still pending at that date shall be completed in accordance with the provisions of this Agreement.

3. This Agreement shall be terminated in the event of termination of the Agreement of 18 May 1999 concluded by the Council of the European Union, the Republic of Iceland and the Kingdom of Norway on the latter's association with the application, implementation and development of the Schengen acquis.

4. Termination of this Agreement pursuant to paragraph 3 shall take effect for the same Party or Parties and on the same date as the termination of the Agreement of 18 May 1999 referred to in paragraph 3.

#### *Article 9*

1. The Secretary-General of the Council of the European Union shall act as the depository of this Agreement.

2. The depository shall make public information on any notification made concerning this Agreement.

#### *Article 10*

This Agreement shall be drawn up in one single copy in the Danish, Dutch, English, Finnish, French, German, Greek, Icelandic, Irish, Italian, Norwegian, Portuguese, Spanish and Swedish languages, each text being equally authentic.

Hecho en Bruselas, el diecinueve de diciembre de dos mil tres.

Udfærdiget i Bruxelles, den nittende december to tusind og tre.

Geschehen zu Brüssel am neunzehnten Dezember zweitausendunddrei.

Έγινε στις Βρυξέλλες, στις δέκα εννέα Δεκεμβρίου δύο χιλιάδες τρία.

Done at Brussels, this nineteenth day of December, in the year two thousand and three.

Fait à Bruxelles, le dix-neuf décembre deux mille trois.

Arna dhéanamh sa Bhruiséil ar an naoú lá déag de Nollaig sa bhliain dhá mhíle is a trí.

Fatto a Bruxelles, addì diciannove dicembre duemilatre.

Gedaan te Brussel, de negentiende december tweeduizenddrie.

Feito em Bruxelas, em dezanove de Dezembro de dois mil e três.

Tehty Brysselissä yhdeksäntenätoista päivänä joulukuuta vuonna kaksituhattakolme.

Som skedde i Bryssel den nittonde december tjugohundratre.

Gjört í Brussel nítjándi dag desembermánaðar árið tvö þúsund og þrjú.

Utfærdiget i Brussel den 19. desember 2003.

Por la Unión Europea  
For Den Europæiske Union  
Für die Europäische Union  
Για την Ευρωπαϊκή Ένωση  
For the European Union  
Pour l'Union européenne  
Thar ceann an Aontais Eorpaigh  
Per l'Unione europea  
Voor de Europese Unie  
Pela União Europeia  
Euroopan unionin puolesta  
För Europeiska unionen

*Lambert Vattain*

Fyrir hönd Lýðveldisins Íslands

*Ólafur Thorgeirsson*

For Kongeriket Norge

*Bjørn T. Gyrdeland*

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## ANNEX I

**Application to Gibraltar**

The United Kingdom of Great Britain and Northern Ireland, as Member State responsible for Gibraltar, including its external relations, confirms that this Agreement will take effect in the territory upon extension of the 2000 EU Mutual Assistance Convention and the 2001 Protocol to Gibraltar, which is contingent upon the 1959 Council of Europe Mutual Assistance Convention having been extended to Gibraltar. At that time, the United Kingdom will designate a relevant Gibraltar authority as competent for the purposes of the Agreement. Any formal communication with this authority will be conducted in accordance with the Agreed Arrangements between the United Kingdom and the Kingdom of Spain relating to Gibraltar authorities in the context of EU and EC instruments and related treaties, which were notified to the Member States and institutions of the European Union on 19 April 2000. A copy of these Arrangements shall be notified to the Republic of Iceland and Kingdom of Norway by the Secretary-General of the Council of the European Union.

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## ANNEX II

**Declaration by the Contracting Parties to the Agreement between the European Union and the Republic of Iceland and the Kingdom of Norway on the application of certain provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union and the 2001 Protocol thereto**

The Contracting Parties agree to consult, as appropriate, when the Republic of Iceland or the Kingdom of Norway or one of the Member States of the European Union considers that there is occasion to do so, to enable the most effective use to be made of this Agreement, including with a view to preventing any dispute regarding the practical implementation and interpretation of this Agreement. This consultation shall be organised in the most convenient way, taking into account the existing structures of cooperation.

**Declaration by the Republic of Iceland and the Kingdom of Norway**

The Republic of Iceland and the Kingdom of Norway declare, in view of the provisions of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters enabling direct contact between judicial authorities, that their competent judicial authorities wish, where appropriate, to make requisite enquiries through the contact points of the European Judicial Network, in order to establish which judicial authority of a Member State of the European Union has the territorial competence for initiating and executing requests for mutual assistance.

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