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EUROPEAN COMMISSION

Brussels, 17.12.2009  
COM(2009)704 final

2009/0189 (NLE)

Proposal for a

**COUNCIL DECISION**

**on the conclusion 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**

## EXPLANATORY MEMORANDUM

### 1. CONTEXT OF THE PROPOSAL

The objective of the Agreement [OJ L 26 of 29/1/2004] is to improve judicial cooperation in criminal matters between the Member States of the European Union and Iceland and Norway by applying 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 to Iceland and Norway.

The purpose of the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters is to encourage and modernise cooperation between judicial, police and customs authorities by supplementing the provisions and facilitating the application of the 1959 Council of Europe Convention on Mutual Assistance in Criminal Matters, and its 1978 Protocol, the 1990 Convention applying the Schengen Agreement and the Benelux Treaty of 1962.

The convention is supplemented by a Protocol established by the Council in accordance with Article 34 of the Treaty on European Union [OJ C 326 of 21/11/2001] which provides for supplementary measures such as requests for information on banking transactions in order to combat crime in general and organised crime in particular.

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 was authorised by the Council in its Decision of 17 December 2003 based on Articles 24 and 38 of the Treaty on European Union.

The Agreement has not yet been concluded and has not entered into force.

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.

The Agreement was signed already 6 years ago and therefore it should now be concluded as soon as possible.

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.

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 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.

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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 Article 82(1)(d), read 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,

Whereas:

- (1) On 19 December 2002 the Council authorised the Presidency of the Council, assisted by the Commission, to open negotiations with a view to 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.
- (2) In accordance with Council Decision 2004/79/EC of 17 December 2003 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 was signed on...., subject to its conclusion at a later date..
- (3) 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.
- (4) The Agreement should be concluded.
- (5) [In accordance with Article 3 of Protocol N° 21 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 have notified their wish to take part in the adoption of this Decision.]

- (6) In accordance with Articles 1 and 2 of Protocol N° 22 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 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<sup>1</sup>, 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 notification provided for in Article 6(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]*

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<sup>1</sup> OJ L 26 of 29.1.2004, p.3.

