Council Implementing Decision (EU) 2019/968 of 6 June 2019 on the launch of automated data exchange with regard to DNA data in the United Kingdom

COUNCIL IMPLEMENTING DECISION (EU) 2019/968

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on the launch of automated data exchange with regard to DNA data in the United Kingdom

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime[(1)], and in particular Article 33 thereof,

Having regard to the opinion of the European Parliament[(2)],

Whereas:

(1) In accordance with Article 25(2) of Decision 2008/615/JHA, the supply of personal data provided for under that Decision may not take place until the general provisions on data protection set out in Chapter 6 of that Decision have been implemented in the national law of the territories of the Member States involved in such supply.

(2) Article 20 of Council Decision 2008/616/JHA[(3)] provides that the verification that the condition referred to in recital 1 has been met with respect to automated data exchange in accordance with Chapter 2 of Decision 2008/615/JHA is to be done on the basis of an evaluation report based on a questionnaire, an evaluation visit and a pilot run.

(3) The United Kingdom has informed the General Secretariat of the Council on the national DNA analysis files to which Articles 2 to 6 of Decision 2008/615/JHA apply and the conditions for the automated searching as referred to in Article 3(1) of that Decision in accordance with Article 36(2) of that Decision.

(4) In accordance with Chapter 4, point 1.1, of the Annex to Decision 2008/616/JHA, the questionnaire drawn up by the relevant Council Working Group concerns each of the automated data exchanges and has to be answered by a Member State as soon as it believes it fulfils the prerequisites for sharing data in the relevant data category.

(5) The United Kingdom has completed the questionnaire on data protection and the questionnaire on DNA data exchange.

(6) A successful pilot run has been carried out by the United Kingdom with Austria and Germany.

(7) An evaluation visit has taken place in the United Kingdom and a report on the evaluation visit has been produced by the Austrian, German and French evaluation team and forwarded to the relevant Council Working Group.

(8) An overall evaluation report, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning DNA data exchange has been presented to the Council.

(9) On 11 October 2018, the Council, having noted the agreement of all Member States bound by Decision 2008/615/JHA, concluded that the United Kingdom has fully implemented the general provisions on data protection set out in Chapter 6 of Decision 2008/615/JHA.
Furthermore, the Council requested that the United Kingdom review, within 12 months of the launching of the automated data exchange, its policy of excluding suspects' profiles from automated DNA data exchange, in the light of operational experience with Prüm DNA data exchange and of the explanations in the evaluation visit report.

(10) Therefore, for the purposes of automated searching of DNA data, the United Kingdom should be entitled to receive and supply personal data pursuant to Articles 3 and 4 of Decision 2008/615/JHA. However, given the practical and operational significance of the inclusion of suspects' profiles in automated DNA data exchange for public security, in particular for combating terrorism and cross-border crime, the United Kingdom should review its policy on the exchange of suspects' profiles. If the operational experience acquired with Prüm DNA data exchange within the first 12 months has not led the United Kingdom to notify the Council that it has reviewed its policy, the Council should re-evaluate the situation with a view to the continuation or termination of DNA Prüm automated exchange with the United Kingdom.

(11) Article 33 of Decision 2008/615/JHA confers implementing powers upon the Council with a view to adopting measures necessary to implement that Decision, in particular as regards the receiving and supply of personal data provided for under that Decision.

(12) As the conditions for triggering the exercise of such implementing powers have been met and the procedure in this regard has been followed, an Implementing Decision on the launch of automated data exchange with regard to DNA data in the United Kingdom should be adopted in order to allow that Member State to receive and supply personal data pursuant to Articles 3 and 4 of Decision 2008/615/JHA.

(13) Denmark, Ireland and the United Kingdom are bound by Decision 2008/615/JHA and are therefore taking part in the adoption and application of this Decision which implements Decision 2008/615/JHA,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of automated searching and comparison of DNA data, the United Kingdom is entitled to receive and supply personal data pursuant to Articles 3 and 4 of Decision 2008/615/JHA as from 14 June 2019.

Article 2

By 15 June 2020, the United Kingdom shall complete a review of its policy of excluding suspects' profiles from automated DNA data exchange.