COUNCIL DECISION

of 19 July 2011

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

(2011/472/EU)

THE COUNCIL 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], in particular Article 2(3) and Article 25 thereof,

Having regard to Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA [2], in particular Article 20 and Chapter 4 of the Annex thereto,

Whereas:

(1) According to the Protocol on Transitional Provisions annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, the legal effects of the acts of the institutions, bodies, offices and agencies of the Union adopted prior to the entry into force of the Treaty of Lisbon are preserved until those acts are repealed, annulled or amended in implementation of the Treaties.

(2) Accordingly, Article 25 of Decision 2008/615/JHA is applicable and the Council must unanimously decide whether the Member States have implemented the provisions of Chapter 6 of that Decision.

(3) Article 20 of Decision 2008/616/JHA provides that decisions referred to in Article 25(2) of Decision 2008/615/JHA are to be taken on the basis of an evaluation report based on a questionnaire. With respect to automated data exchange in accordance with Chapter 2 of Decision 2008/615/JHA, the evaluation report is to be based on an evaluation visit and a pilot run.

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

(5) According to 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.

(6) Portugal has completed the questionnaire on data protection and the questionnaire on DNA data exchange.

(7) A successful pilot run has been carried out by Portugal with Germany.

(8) An evaluation visit has taken place in Portugal and a report on the evaluation visit has been produced by the German evaluation team and forwarded to the relevant Council Working Group.

(9) 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,

HAS ADOPTED THIS DECISION:

Article 1

For the purposes of automated searching and comparison of DNA data, Portugal has fully implemented the general provisions on data protection of Chapter 6 of Decision 2008/615/JHA and is entitled to receive and supply personal data pursuant to Articles 3 and 4 of that Decision as from the date of the entry into force of this Decision.

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels, 19 July 2011.

For the Council
The President
M. SAWICKI

[1] OJ L 210, 6.8.2008, p. 1.
[2] OJ L 210, 6.8.2008, p. 12.