COUNCIL IMPLEMENTING DECISION (EU) 2017/618

of 27 March 2017

on the launch of automated data exchange with regard to vehicle registration data in Denmark

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 above condition 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) In accordance with point 1.1 of Chapter 4 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 is to be answered by a Member State as soon as it believes it fulfils the prerequisites for sharing data in the relevant data category.

(4) Denmark has completed the questionnaire on data protection and the questionnaire on vehicle registration data (VRD) exchange.

(5) A successful pilot run has been carried out by Denmark with the Netherlands.

(6) An evaluation visit has taken place in Denmark and a report on the evaluation visit has been produced by the Dutch and Swedish evaluation team and forwarded to the relevant Council Working Group.

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

(8) On 13 October 2016, the Council, having noted the agreement of all Member States bound by Decision 2008/615/JHA, concluded that Denmark had fully implemented the general provisions on data protection set out in Chapter 6 of Decision 2008/615/JHA.

(9) Therefore, for the purposes of automated searching of VRD, Denmark should be entitled to receive and supply personal data pursuant to Article 12 of Decision 2008/615/JHA.

(10) In its judgment of 22 September 2016 in Joined Cases C-14/15 and C-116/15, the Court of Justice of the European Union held that Article 25(2) of Decision 2008/615/JHA unlawfully lays down the requirement of unanimity for the adoption of measures necessary to implement that Decision.

(11) However, Article 33 of Decision 2008/615/JHA confers upon the Council implementing powers 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.

([1]) OJ L 210, 6.8.2008, p. 1.
([2]) Opinion of 15 March 2017 (not yet published in the Official Journal).
([3]) Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (OJ L 210, 6.8.2008, p. 12).

(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 VRD in Denmark should be adopted in order to allow that Member State to receive and supply personal data pursuant to Article 12 of Decision 2008/615/JHA.

(13) Denmark is bound by Decision 2008/615/JHA and is therefore taking part in the adoption and application of this Decision which implements Decision 2008/615/JHA.

(14) The United Kingdom and Ireland 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 of Vehicle Registration Data, Denmark is entitled to receive and supply personal data pursuant to Article 12 of Decision 2008/615/JHA as from 2 April 2017.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Decision shall apply in accordance with the Treaties.

Done at Brussels, 27 March 2017.

For the Council
The President
C. ABELA