COUNCIL IMPLEMENTING DECISION (EU) 2017/944

of 18 May 2017

on the automated data exchange with regard to dactyloscopic data in Latvia, and replacing Decision 2014/911/EU

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

(4) By adopting Council Decision 2014/911/EU ([4]), the Council concluded that Latvia has fully implemented the general provisions on data protection under Chapter 6 of Decision 2008/615/JHA and is entitled to receive and supply personal data pursuant to Article 9 of that Decision as from 4 December 2014, and it also concluded that the evaluation report was approved in accordance with Article 25(2) of Decision 2008/615/JHA.

(5) This Decision replaces Decision 2014/911/EU which was annulled by the Court of Justice of the European Union ('the Court') by its judgement of 22 September 2016 in Joined Cases C-14/15 and C-116/15. In that judgement, the Court maintained the effects of Decision 2014/911/EU until the entry into force of a new act intended to replace that Decision. Therefore, as from the date of entry into force of this Decision, Decision 2014/911/EU ceases to produce effects.

(6) With a view to ensuring continued receipt and supply of personal data pursuant to Article 9 of Decision 2008/615/JHA, the entry into force of this Decision should be without prejudice to the validity of automated data exchange carried out by the Member States pursuant to Decision 2014/911/EU. The Member States which obtained personal data pursuant to Decision 2014/911/EU should continue to be entitled to further process those data at national level or between Member States for the purposes laid down in Article 26 of Decision 2008/615/JHA.

([1]) OJ L 210, 6.8.2008, p. 1.
([2]) Opinion of 5 April 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).
([4]) Council Decision 2014/911/EU of 4 December 2014 on the launch of automated data exchange with regard to dactyloscopic data in Latvia (OJ L 360, 17.12.2014, p. 28).

(7) 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 receipt and supply of personal data provided for under that Decision. As the conditions for triggering the exercise of such implementing powers have been met and the procedure in that regard has been followed, an implementing decision on the automated data exchange with regard to dactyloscopic data should be adopted with regard to Latvia in order to replace the annulled Decision 2014/911/EU and allow that Member State to continue receiving and supplying personal data pursuant to Article 9 of Decision 2008/615/JHA.

(8) 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.

(9) 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 purpose of automated searching of dactyloscopic data, Latvia shall continue to be entitled to receive and supply personal data pursuant to Article 9 of Decision 2008/615/JHA.

Article 2

1. Decision 2014/911/EU ceases to produce effects as from the date of entry into force of this Decision, without prejudice to the validity of automated data exchange carried out pursuant to that Decision by Member States.

2. Member States which obtained personal data pursuant to Decision 2014/911/EU shall continue to be entitled to further process those data at national level or between Member States for the purposes laid down in Article 26 of Decision 2008/615/JHA.

Article 3

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, 18 May 2017.

For the Council
The President
C. ABELA