





Procedure file

Basic information	
CNS - Consultation procedure	2016/0819(CNS)
Automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium	
Subject 1.20.09 Protection of privacy and data protection 7.30 Police, judicial and customs cooperation in general	
Geographical area Cyprus Estonia Malta Sweden Latvia Portugal Belgium Lithuania Czechia Hungary Poland Slovakia	
Procedure completed	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	 Civil Liberties, Justice and Home Affairs	 SARGENTINI Judith	09/02/2017
		Shadow rapporteur	
		 UNGUREANU Traian	
		 HYUSMENOVA Filiz	
Council of the European Union			

Key events			
13/12/2016	Legislative proposal published	13525/2016	Summary
15/12/2016	Committee referral announced in Parliament		
23/03/2017	Vote in committee		
28/03/2017	Committee report tabled for plenary, 1st reading/single reading	A8-0091/2017	Summary
05/04/2017	Results of vote in Parliament		
05/04/2017	Decision by Parliament	T8-0119/2017	Summary
18/05/2017	Act adopted by Council after consultation of Parliament		

18/05/2017	End of procedure in Parliament		
02/06/2017	Final act published in Official Journal		

Technical information

Procedure reference	2016/0819(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Stage reached in procedure	Procedure completed
Committee dossier	LIBE/8/08773

Documentation gateway

Legislative proposal	13525/2016	13/12/2016	CSL	Summary
Committee draft report	PE599.714	03/03/2017	EP	
Committee report tabled for plenary, 1st reading/single reading	A8-0091/2017	28/03/2017	EP	Summary
Text adopted by Parliament, 1st reading/single reading	T8-0119/2017	05/04/2017	EP	Summary

Final act

[Decision 2017/945](#)
[OJ L 142 02.06.2017, p. 0089](#) Summary

Automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium

PURPOSE: to authorise Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to be entitled to receive and supply personal data for the purpose of automated searching and comparison of DNA data.

PROPOSED ACT: Council Implementing Decision.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: [Council Decision 2008/615/JHA](#) on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, 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.

The supply of personal data provided for under that Decision may not take place until the general provisions on data protection have been implemented in the national law of the territories of the Member States involved in such supply.

[Council Decision 2008/616/JHA](#) provides that the verification that the condition with respect to automated data exchange has been met is to be done on the basis of an evaluation report based on a questionnaire, an evaluation visit and a pilot run.

The overall evaluation reports, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium have been presented to the Council.

On the basis of these evaluation reports, Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU authorised Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to be entitled to receive and supply personal data for the purpose of automated searching and comparison of DNA data.

In its judgment of 22 September, the Court of Justice annulled the above-mentioned Decisions on the basis that they are vitiated by a procedural defect. With a view to ensuring the legal certainty of the receipt and supply of personal data with regard to the Member States concerned, those Decisions should be replaced by this present draft Decision.

CONTENT: the proposed Council implementing Decision seeks, for the purpose of automated searching and comparison of DNA data, to authorise Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to be entitled to receive and supply personal data pursuant to Decision 2008/615/JHA.

Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU cease 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 those Decisions by the Member States.

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

The United Kingdom and Ireland shall participate in the adoption of the proposed Decision.

Automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium

The Committee on Civil Liberties, Justice and Home Affairs adopted, following the consultation procedure, the report by Judith SARGENTINI (Greens/EFA, NL) on the draft Council implementing decision on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU.

The committee recommended the European Parliament to approve the Council draft.

The proposed Council implementing Decision seeks, for the purpose of automated searching and comparison of DNA data, to authorise Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to be entitled to receive and supply personal data pursuant to Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime.

In the explanatory memorandum accompanying the report, it is recalled that Parliament was consulted by the Council pursuant to Article 39(1) of the Treaty on European Union, as amended by the Treaty of Amsterdam, and Article 9 of Protocol No 36 on transitional provisions.

In accordance with Article 39(1) of the ex-Treaty on European Union, which the Court of Justice has ruled that it is still applicable, the Council may lay down a time limit for the European Parliament to deliver its opinion and in the absence of an opinion within that time limit, the Council may act.

The rapporteur considered that CJEU case law does not allow adequate parliamentary control. It regretted that the Commission has still not submitted proposals to replace the instruments adopted under the former third pillar, in particular one on the replacement of the 'Prüm Decision' (Council Decision 2008/616/JHA). Such an act should be based on Article 87(2)(a) of the Treaty on the Functioning of the European Union, thus enabling Parliament to take part in drafting this legislation in the ordinary legislative procedure.

Automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium

The European Parliament adopted by 595 votes to 78, with 22 abstentions, following the consultation procedure, a legislative resolution on the draft Council implementing decision on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU.

Parliament was consulted by the Council in accordance with Article 39(1) of the Treaty on European Union, as amended by the Treaty of Amsterdam, and Article 9 of Protocol No 36 on transitional provisions.

In line with the recommendation made by the Committee on Civil Liberties, Justice and Home Affairs, Parliament approved the Council draft.

Automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium

PURPOSE: to authorise Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to receive and supply of personal data for the purpose of automated searching and comparison of DNA.

NON LEGISLATIVE ACT: Council Implementing Decision (EU) 2017/945 on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU

CONTENT: through this Council Implementing Decision, Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium remain authorised to continue to receive and supply personal data in accordance with Decision 2008/615/JAI for the purpose of automated searching and comparison of DNA data.

To recall, [Council Decision 2008/615/JAI](#) on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, provides that the supply of personal data may not take place until the Member States involved in such supply have implemented in national law the general provisions on data protection set out in that Decision.

An overall evaluation report, summarising the results of the questionnaire, the evaluation visit and the pilot run concerning the Member States concerned has been presented to the Council.

On the basis of these evaluation reports, Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU,

2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU authorised Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium to continue to be entitled to receive and supply personal data for the purpose of automated searching and comparison of DNA data.

In its judgment of 22 September, the Court of Justice annulled the above-mentioned Decisions on the basis that they are vitiated by a procedural defect.

With a view to ensuring the legal certainty of the receipt and supply of personal data, this Decision replaces the Decisions annulled by the Court.

The Member States that obtained personal data pursuant to these Decision are entitled to further process those data at national level or between Member States.

ENTRY INTO FORCE: 3.6.2017. From that date, Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU will cease to have effect.