

WP-3-001

EUROPEAN UNION
THE COUNCIL

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LIMITE

SCHENGEN 2

NOTE

from : Council Secretariat

to : Schengen Group / Norway - Iceland

Please find attached the text of the Cooperation Agreement of 19 December 1996 between the Contracting Parties to the Schengen Agreement and to the Schengen Convention, and the Republic of Iceland and the Kingdom of Norway on the abolition of controls on persons at common borders.

Cooperation Agreement between the Kingdom of Belgium, the French Republic, the Federal Republic of Germany, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Italian Republic, the Kingdom of Spain, the Portuguese Republic, the Hellenic Republic, the Republic of Austria, the Kingdom of Denmark, the Republic of Finland, the Kingdom of Sweden, Contracting Parties to the Schengen Agreement and to the Schengen Convention, and the Republic of Iceland and the Kingdom of Norway on the abolition of controls on persons at their common borders.

The Kingdom of Belgium, the Federal Republic of Germany, the French Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Italian Republic, the Kingdom of Spain, the Portuguese Republic, the Hellenic Republic, the Republic of Austria, the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden and the Republic of Iceland and the Kingdom of Norway, hereinafter referred to as "the Parties":

Having regard to the Agreement between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of controls at their common borders, signed at Schengen on 14 June 1985, hereinafter referred to as "the Schengen Agreement", and having regard to the Convention implementing that Agreement signed at Schengen on 19 June 1990, hereinafter referred to as "the Schengen Convention", as amended by the Protocols and Agreements on the accession of the Italian Republic, the Kingdom of Spain and the Portuguese Republic, the Hellenic Republic and the Republic of Austria, and the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden, signed on 27 November 1990, 25 June 1991, 6 November 1992, 28 April 1995 and 19 December 1996 respectively;

Having regard to the Protocol of 22 May 1954 on the exemption of nationals of Denmark, Finland, Iceland, Norway and Sweden from the obligation to hold a passport or residence permit while resident in a Nordic country other than their own and to the Convention between Denmark, Finland, Iceland, Norway and Sweden on the abolition of passport controls at intra-Nordic borders signed in Copenhagen on 12 July 1957, hereinafter referred to as "the Nordic Passport Union";

Having regard to the Agreement on the European Economic Area (EEA) of 2 May 1992; whereas the Parties to that Agreement are determined, inter alia, to achieve the free movement of persons as far as possible throughout the entire EEA;

Having regard to the Declaration by the Governments of the Member States of the European Community and the States of the European Free Trade Area (EFTA) adopted at the meeting at Oporto on 2 May 1992 and annexed to the Agreement on the EEA, according to which in order to promote the free movement of persons the Member States of the European Community and the EFTA States shall, subject to the practical arrangements to be defined in the appropriate fora, cooperate with a view to facilitating controls on each other's nationals and the members of their families at borders between their territories;

Whereas the Schengen Agreement, the Schengen Convention and the Nordic Passport Union provide for the abolition of controls on persons at common borders between the Contracting Parties;

Whereas the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden, as Member States of the European Union, signed protocols on their accession to the Schengen Agreement and the Schengen Convention at Luxembourg on 19 December in the year one thousand nine hundred and ninety-six;

Whereas in order to be party to the Schengen Convention it is necessary to be a member of the European Communities; whereas as long as the Republic of Iceland and the Kingdom of Norway are not members of the European Communities they may not accede to the Schengen Convention;

Desirous of cooperating to abolish controls on the movement of persons at the common borders between the Parties; whereas this cooperation includes the necessary compensatory measures; whereas in order to achieve this aim it is necessary to conclude a cooperation agreement between the Parties;

Whereas this Agreement shall not apply to goods; whereas goods are covered by the Agreement on the EEA; whereas measures aimed at adapting controls on hand luggage must be found outside this Agreement;

Whereas extending to both the Republic of Iceland and the Kingdom of Norway certain provisions of the European Community or provisions adopted within the framework of the European Union which replace provisions of the Schengen Convention might necessitate the conclusion of arrangements between the Republic of Iceland and the Kingdom of Norway and the European Community or the Member States of the European Union; whereas it is necessary to provide for transitional measures where appropriate;

Have agreed as follows:

Article 1

The Schengen Agreement, the Schengen Convention, including the Final Act, Protocols and Joint Declarations annexed to the Schengen Convention, the decisions and declarations made by or on behalf of the Executive Committee in accordance with the Schengen Convention and the agreements concluded in relation to the Schengen Convention shall apply between all the Parties to this Agreement, unless otherwise provided for by this Agreement. The Annex contains a list of the provisions in force at the date on which this Agreement is signed.

Article 2

1. The Republic of Iceland and the Kingdom of Norway shall participate in all meetings of the Executive Committee, the Joint Supervisory Authority, the Central Group and all the other working groups set up to prepare decisions or to carry out other activities.
2. The Republic of Iceland and the Kingdom of Norway shall be free to express their opinions and concerns and to submit proposals but shall not participate in voting.
3. The States Parties to the Schengen Convention shall exchange views with the Republic of Iceland and the Kingdom of Norway on the matters discussed within European Union fora which relate to this Agreement.

Article 3

1. The Republic of Iceland and the Kingdom of Norway shall decide independently whether to accept:
 - a. decisions and declarations made by or on behalf of the Executive Committee;
 - b. provisions of Community law which the Executive Committee has found to render provisions of the Schengen Convention inapplicable in accordance with Article 134 thereof;
 - c. provisions adopted by the Member States of the European Union which the Executive Committee has found to have replaced provisions of the Schengen Convention in accordance with Article 142 (1) thereof;
 - d. amendments to the Schengen Convention within the meaning of Articles 141 or 142 (2) thereof;
 - e. any agreements concluded between all the States Parties to the Schengen Convention and Third States;

which enter into force after the date on which this Agreement is signed.

The findings referred to in sub-paragraphs 1b and 1c shall constitute decisions of the Executive Committee within the meaning of Article 132 (2) of the Schengen Convention. The Executive Committee shall determine which of the provisions referred to in sub-paragraphs 1b and 1c should be the subject of arrangements between the Republic of Iceland and the Kingdom of Norway and the European Community or the Member States of the European Union. If these arrangements and the abovementioned replacement provisions cannot enter into force simultaneously, the Executive Committee shall, within its competence, adopt transitional provisions where necessary.

2. The acceptance by the Republic of Iceland and the Kingdom of Norway of acts referred to in paragraph 1 shall create rights and obligations between the Parties.

The Executive Committee shall take formal note of this acceptance and shall record it in the minutes of its meeting.

3. Should the agenda of a meeting of the Executive Committee include the adoption of a decision referred to in paragraph 1 which discussions held in any of the working groups and subsequently in the Central Group give reason to believe that the Republic of Iceland and/or the Kingdom of Norway will be unable to accept, the Republic of Iceland and/or the Kingdom of Norway shall be granted the opportunity to explain their position to the Executive Committee. The Executive Committee shall not adopt a decision on the matter until the position of the Republic of Iceland and/or the Kingdom of Norway has been expressly considered.

Article 4

The provisions of this Agreement shall not prejudice cooperation within the framework of the Nordic Passport Union insofar as such cooperation does not conflict with, or impede, the application of this Agreement.

Article 5

This Agreement shall not apply to Svalbard (Spitsbergen).

Article 6

Article 2 (4) and Title V of the Schengen Convention do not fall within the scope of this Agreement.

Article 7

1. On signing this Agreement, the Republic of Iceland and the Kingdom of Norway shall notify:

- the officers referred to in Article 40 (4) of the Schengen Convention;
- the authority referred to in Article 40 (5) of the Schengen Convention;
- the ministry referred to in Article 65 (2) of the Schengen Convention.

2. At the same time, the Kingdom of Norway shall notify:

- the officers referred to in Article 41 (7) of the Schengen Convention;
- and those referred to under the conditions laid down in the relevant bilateral agreements within the meaning of Article 41 (10) of the Schengen Convention on their powers in respect of the illicit trafficking of narcotic drugs and psychotropic substances, firearms and explosives and the illicit transport of toxic and dangerous waste.

3. The notifications provided for in paragraphs 1 and 2 shall be addressed to the Government of the Grand Duchy of Luxembourg, depositary of this Agreement, which shall inform the other Parties thereof. The same shall apply to amendments to the designation of the officers, authorities and ministries referred to in paragraphs 1 and 2.

Article 8

1. This Agreement shall be subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Government of the Grand Duchy of Luxembourg, which shall notify all the Parties thereof.

Article 9

1. The entry into force of this Agreement shall be subject to:

- a. the deposit of an instrument of ratification, acceptance or approval by all the Parties to this Agreement;
- b. the entry into force of the Agreements on the accession to the Schengen Convention of the Kingdom of Denmark, the Republic of Finland and the Kingdom of Sweden;
- c. the entry into force of specific agreements with the European Community required by a decision of the Executive Committee for the Republic of Iceland and the Kingdom of Norway to adopt the provisions of the Community which have rendered the provisions of the Schengen Convention inapplicable in accordance with Article 134 on the date of signing this Agreement.
- d. the entry into force of specific agreements with the Member States of the European Union required by a decision of the Executive Committee for the Republic of Iceland and the Kingdom of Norway to adopt the provisions of the European Union which have replaced provisions of the Schengen Convention in accordance with Article 142 (1) on the date of signing this Agreement.
- e. the entry into force of specific agreements with Third States required by a decision of the Executive Committee for the Republic of Iceland and the Kingdom of Norway to adopt the provisions of arrangements concluded between the States Parties to the Schengen Convention and Third States on the date of signing this Agreement.

2. The Executive Committee shall ascertain whether the conditions for the entry into force have been met and shall notify the Government of the Grand Duchy of Luxembourg thereof as depositary. This Agreement shall enter into force on the first day of the second month after the deposit of the last instrument of ratification, acceptance or approval, provided that the conditions set out in sub-paragraphs 1b, 1c, 1d and 1e above have been met.

The Government of the Grand Duchy of Luxembourg shall inform all the Parties of the date of entry into force.

3. This Agreement shall be implemented between the States where the Schengen Convention has already been implemented and the Republic of Iceland and the Kingdom of Norway when the preconditions for the implementation of the Schengen Convention have been fulfilled in all of these States and when controls at the external borders are effective.

Article 10

1. In the event of a serious disagreement between the Republic of Iceland and/or the Kingdom of Norway of the one part and the other Parties to this Agreement of the other part, this Agreement may be denounced by the States Parties to the Schengen Convention acting jointly and by the Republic of Iceland and/or the Kingdom of Norway acting severally.

2. Should the Republic of Iceland and/or the Kingdom of Norway not accept an act referred to in Article 3 (1), this shall be deemed to be denunciation and the Presidency of the Executive Committee shall notify this denunciation within a period of 30 days to the Government of the Grand Duchy of Luxembourg, which shall inform the other Parties thereof. The Republic of Iceland and/or the Kingdom of Norway shall cease to be Parties to this Agreement six months after such notification.

3. This Agreement shall expire when the Republic of Iceland and the Kingdom of Norway or the States Parties to the Schengen Convention cease to be parties thereto.

4. The consequences of denunciation of this Agreement shall be the subject of an agreement between the remaining Parties and the Party denouncing the Agreement. In the absence of agreement, the Executive Committee shall, within its competence, take the requisite measures.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this Agreement.

DONE AT Luxembourg, this nineteenth day of December in the year one thousand nine hundred and ninety-six, in the Danish, Dutch, Finnish, French, German, Greek, Icelandic, Italian, Norwegian, Portuguese, Spanish and Swedish languages, all twelve texts being equally authentic, in a single original which shall remain deposited in the archives of the Government of the Grand Duchy of Luxembourg, which shall transmit certified true copies thereof to each of the Parties.

For the Government of the Kingdom of Belgium

For the Government of the Federal Republic of Germany

For the Government of the French Republic

For the Government of the Grand Duchy of Luxembourg

For the Government of the Kingdom of the Netherlands

For the Government of the Italian Republic

For the Government of the Kingdom of Spain

For the Government of the Portuguese Republic

For the Government of the Hellenic Republic

For the Government of the Republic of Austria

For the Government of the Kingdom of Denmark

For the Government of the Republic of Finland

For the Government of the Kingdom of Sweden

For the Government of the Republic of Iceland

For the Government of the Kingdom of Norway

Declaration by the Parties to the Schengen Convention

Further to the denunciation of this Agreement or in the event of its expiry in accordance with Article 10 (2) thereof, the controls on persons at the borders with the State or States concerned shall be carried out in accordance with the provisions of the Schengen Convention.

Declaration by the Republic of Iceland and the Kingdom of Norway

1. The reservations issued in accordance with Article 13 of the European Convention on the Suppression of Terrorism shall not apply to extradition between the Signatory States to this Agreement.
2. The Republic of Iceland and the Kingdom of Norway declare that they shall not invoke, in relation to Member States of Schengen which ensure equal treatment, their declarations under Article 6 (1) of the European Convention on Extradition as grounds for refusing to extradite residents from non-Nordic States.