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Subject: Negotiations with a view to concluding agreements between the European Union and Iceland and Norway on the application of certain provisions in the field of judicial cooperation in criminal matters on the basis of Articles 24 and 38 of the Treaty on European Union
- Comments by the German delegation

Delegations will find attached the declassified version of the above document.

The text of this document is identical to the previous version.

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NOTE

from: German delegation

to: Article 36 Committee

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We have strong reservations about the provisions of Article 3 of the draft.

In particular, we cannot agree to the content of Article 3(4) of the draft, as it now stands.

Article 3(2) provides for a positive list of numerous categories of offence, with the result that in future there will no longer be any verification of double criminality when requests are made in respect of an offence subsumable under that list.

While Article 3(4) sets limits in that Member States may make a declaration to the effect, inter alia, that they will not apply paragraph 1, under the second sentence in Article 3(4), there are many exceptions to the rule, where this will not be possible.

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As the draft stands at present, these exceptions to the rule are couched in far too general terms and there is therefore the risk of an almost limitless inclusion of offences in the list. Take the example of the term "organised crime", which does not firmly define or restrict the offences that can be covered by it. The exceptions to the rule in Article 3(4) and also, possibly, the positive list in Article 3(2) therefore need to be clearly spelt out.

The removal of verification of double criminality will not be acceptable unless it is ensured that it applies only to tightly defined serious criminal offences.

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