

COMMISSION DECISION (EU) 2016/809**of 20 May 2016****on the notification by the United Kingdom of Great Britain and Northern Ireland of its wish to participate in certain acts of the Union in the field of police cooperation adopted before the entry into force of the Treaty of Lisbon and which are not part of the Schengen *acquis***

THE EUROPEAN COMMISSION,

Having regard to Protocol No 36 on transitional provisions, and in particular Article 10(5) thereof, in conjunction with Article 4 of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice and Article 331(1) of the Treaty on the Functioning of the European Union,

Whereas:

- (1) Article 10(4) of Protocol No 36 allowed the United Kingdom, at the latest six months before the expiry of the five-year transitional period referred to in Article 10(3) of Protocol No 36, to notify the Council that it does not accept, with respect to acts of the Union in the field of police cooperation and judicial cooperation in criminal matters which had been adopted before the entry into force of the Treaty of Lisbon, the powers of the Commission and of the Court of Justice as referred to in Article 10(1) of Protocol No 36.
- (2) By letter to the President of the Council of 24 July 2013, the United Kingdom made use of that possibility by notifying that it did not accept the said powers of the Commission and of the Court of Justice, with the consequence that the relevant acts in the field of police cooperation and judicial cooperation in criminal matters ceased to apply to the United Kingdom on 1 December 2014.
- (3) Article 10(5) of Protocol No 36 allows the United Kingdom to notify the Council of its wish to participate in acts which have ceased to apply to it.
- (4) Commission Decision 2014/858/EU ⁽¹⁾ confirmed the participation of the United Kingdom in a number of acts.
- (5) Council Decision 2014/836/EU ⁽²⁾ confirmed that Council Decision 2008/615/JHA ⁽³⁾, Council Decision 2008/616/JHA ⁽⁴⁾ and Council Framework Decision 2009/905/JHA ⁽⁵⁾ (‘the Prüm Decisions’) ceased to apply to the United Kingdom as from 1 December 2014 and prevented the United Kingdom from accessing the Eurodac database for law enforcement purposes until such time as it participates in the Prüm Decisions. Decision 2014/836/EU also called for the United Kingdom to undertake a full business and implementation case in order to assess the merits and practical benefits of participating in the Prüm Decisions. The United Kingdom has conducted the business and implementation case and its parliament has voted in favour of participating in the Prüm Decisions.
- (6) Council Decision 2014/857/EU ⁽⁶⁾ confirmed the notification of the United Kingdom of Great Britain and Northern Ireland of its wish to take part in some of the provisions of the Schengen *acquis* which are contained in acts of the Union in the field of police cooperation and judicial cooperation in criminal matters.

⁽¹⁾ Commission Decision 2014/858/EU of 1 December 2014 on the notification by the United Kingdom of Great Britain and Northern Ireland of its wish to participate in acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon and which are not part of the Schengen *acquis* (OJ L 345, 1.12.2014, p. 6).

⁽²⁾ Council Decision 2014/836/EU of 27 November 2014 determining certain consequential and transitional arrangements concerning the cessation of the participation of the United Kingdom of Great Britain and Northern Ireland in certain acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon (OJ L 343, 28.11.2014, p. 11).

⁽³⁾ 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 (OJ L 210, 6.8.2008, p. 1).

⁽⁴⁾ 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).

⁽⁵⁾ Council Framework Decision 2009/905/JHA of 30 November 2009 on Accreditation of forensic service providers carrying out laboratory activities (OJ L 322, 9.12.2009, p. 14).

⁽⁶⁾ Council Decision 2014/857/EU of 1 December 2014 concerning the notification of the United Kingdom of Great Britain and Northern Ireland of its wish to take part in some of the provisions of the Schengen *acquis* which are contained in acts of the Union in the field of police cooperation and judicial cooperation in criminal matters and amending Decisions 2000/365/EC and 2004/926/EC (OJ L 345, 1.12.2014, p. 1).

- (7) By letter to the President of the Council of 22 January 2016, the United Kingdom made further use of Article 10(5) of Protocol No 36 to notify of its wish to participate in Decision 2008/615/JHA, Decision 2008/616/JHA and Framework Decision 2009/905/JHA.
- (8) For acts which are not part of the Schengen *acquis*, Article 10(5) of Protocol No 36 refers to Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice. Article 4 of Protocol No 21 refers to the procedure provided for in Article 331(1) TFEU. That latter provision provides for the Commission to confirm the participation of the Member State wishing to participate and to note where necessary that the conditions of participation have been fulfilled.
- (9) According to the fourth sentence of Article 10(5) of Protocol No 36 the Union institutions and the United Kingdom shall seek to re-establish the widest possible measure of participation of the United Kingdom in the *acquis* of the Union in the area of freedom, security and justice without seriously affecting the practical operability of the various parts thereof, while respecting their coherence.
- (10) The conditions of the fourth sentence of Article 10(5) of Protocol No 36 are fulfilled for the acts for which the United Kingdom has notified its wish to participate in them.
- (11) The participation of the United Kingdom in the acts listed in recital 7 should therefore be confirmed,

HAS ADOPTED THIS DECISION:

Article 1

The participation of the United Kingdom in the following Council Decisions is confirmed:

Decision 2008/615/JHA,

Decision 2008/616/JHA,

Framework Decision 2009/905/JHA.

Article 2

This Decision shall be published in the *Official Journal of the European Union*.

It shall enter into force on 21 May 2016.

Done at Brussels, 20 May 2016.

For the Commission
The President
Jean-Claude JUNCKER
