DECISIONS

COUNCIL DECISION
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

(2014/836/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Protocol No 36 on transitional provisions (hereinafter’Protocol No 36’), annexed to the Treaty on European Union, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community, and in particular the second subparagraph of Article 10(4) thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) Under Protocol No 36, the United Kingdom had the possibility to notify to the Council, by 31 May 2014, that it does not accept the powers of the Commission and of the Court of Justice, introduced by the Treaty of Lisbon, 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.

(2) By letter to the President of the Council dated 24 July 2013, the United Kingdom notified the Council that it does not accept the powers of the Commission and of the Court of Justice introduced by the Treaty of Lisbon in the field of police cooperation and judicial cooperation in criminal matters. As a consequence, the relevant acts in the field of police cooperation and judicial cooperation in criminal matters cease to apply to the United Kingdom on 1 December 2014.

(3) The United Kingdom may notify its wish to participate in the acts which have ceased to apply to it.

(4) The United Kingdom has indicated its intention to notify its wish to participate in some of those acts.

(5) In accordance with the second subparagraph of Article 10(4) of Protocol No 36, the Council should, on a proposal from the Commission, determine the necessary consequential and transitional arrangements. The Council may also, on the basis of the third subparagraph of Article 10(4), determine that the United Kingdom should bear the direct financial consequences necessarily and unavoidably incurred as a result of the cessation of its participation in those acts.

(6) Any disruption in the implementation and application of the acts which the United Kingdom has sought to rejoin should be avoided. Those acts should therefore continue to apply to the United Kingdom for a limited transitional period until the decisions of the Council and the Commission authorising the participation of the United Kingdom take effect.

(7) As the United Kingdom has not notified the Council of its wish to participate in Council Decisions 2008/615/JHA (1) and 2008/616/JHA (2) and Council Framework Decision 2009/905/JHA (3) (hereinafter ‘the Prüm Decisions’), they will cease to apply to the United Kingdom as from 1 December 2014. As a consequence

of the cessation of their application, and until such time as the United Kingdom rejoins the Prüm Decisions, it should be prevented from accessing for law enforcement purposes the Eurodac database set up under Regulation (EU) No 603/2013 of the European Parliament and of the Council (1).

(8) However, given the practical and operational significance of the Prüm Decisions to the Union for public security, and more particularly for law enforcement and the prevention, detection and investigation of criminal offences, the United Kingdom should, in close consultation with operational partners in the United Kingdom, the Member States, the Commission, Europol and Eurojust, undertake a full business and implementation case in order to assess the merits and practical benefits of the United Kingdom rejoining the Prüm Decisions and the necessary steps for it to do so, the results of which should be published by 30 September 2015.

(9) If the above business and implementation case is positive, the United Kingdom should decide, by 31 December 2015, on whether to notify the Council, within the following four weeks, of its wish to participate in the Prüm Decisions, in accordance with Article 10(5) of Protocol No 36. The United Kingdom has indicated that a positive vote in its Parliament is required before such decision is taken.

(10) The rules on the financial consequences incurred as a result of the cessation of the participation of the United Kingdom in the Prüm Decisions will be provided for in Council Decision 2014/837/EU (2).

(11) In accordance with the second subparagraph of Article 10(4) of Protocol No 36, the United Kingdom is not participating in the adoption of this Decision, but is bound by it.

HAS ADOPTED THIS DECISION:

Article 1

The acts which are listed in the Annex shall continue to apply to the United Kingdom until 7 December 2014.

Article 2

1. Within 10 days of 30 November 2014, the United Kingdom shall begin to undertake a full business and implementation case in order to assess the merits and practical benefits of the United Kingdom rejoining the Prüm Decisions and the necessary steps for it to do so.

It shall do so in close consultation with operational partners in the United Kingdom, the Member States, the Commission, Europol and Eurojust.

2. By 30 September 2015, the United Kingdom shall publish the results of the business and implementation case referred to in paragraph 1.

3. If the business and implementation case is positive, the United Kingdom shall decide by 31 December 2015 whether to notify the Council of its wish to participate in the Prüm Decisions in accordance with Article 10(5) of Protocol No 36. The notification shall be made within four weeks from 31 December 2015.

(1) Regulation (EU) No 603/2013 of the European Parliament and of the Council of 26 June 2013 on the establishment of 'Eurodac' for the comparison of fingerprints for the effective application of Regulation (EU) No 604/2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person and on requests for the comparison with Eurodac data by Member States' law enforcement authorities and Europol for law enforcement purposes, and amending Regulation (EU) No 1077/2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (OJ L 180, 29.6.2013, p. 1).

(2) Council Decision 2014/837/EU of 27 November 2014 determining certain direct financial consequences incurred as a result of 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 (see page 17 of this Official Journal).
Article 3

Until such time as a decision confirming the United Kingdom’s participation in the Prüm Decisions takes effect, the United Kingdom shall be prevented from accessing for law enforcement purposes the Eurodac database set up under Regulation (EU) No 603/2013.

Article 4

If the United Kingdom has not notified the Council of its wish to participate in the Prüm Decisions within four weeks from 31 December 2015, the Commission shall submit a report to the European Parliament and to the Council on the effects of the non-participation of the United Kingdom in those Decisions.

Article 5

This Decision shall enter into force on 30 November 2014.

Done at Brussels, 27 November 2014.

For the Council
The President
A. GIACOMELLI
ANNEX

LIST OF ACTS REFERRED TO IN ARTICLE 1

1. Convention implementing the Schengen Agreement of 1985: Article 39, Article 40, Articles 42 and 43 (to the extent that they relate to Article 40), Article 44, Article 46, Article 47 (except paragraphs (2)(c) and (4)), Articles 54 to 58, Article 59, Articles 61 to 69, Article 71, Article 72, Articles 126 to 130 (to the extent that they relate to the provisions of the Schengen Convention in which the United Kingdom participates), and Final Act — Declaration No 3 (concerning Article 71(2)) (OJ L 239, 22.9.2000, p. 19)


