



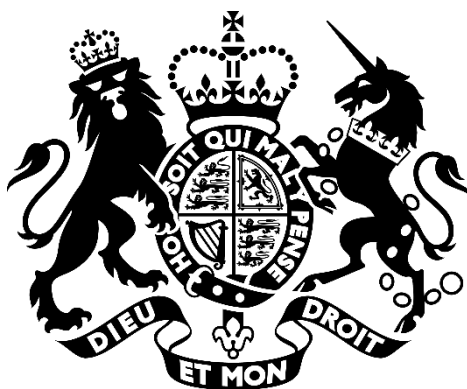
Home Office



Ministry
of Justice

Eighth Annual Report to Parliament on the Application of Protocols 19 and 21 to the Treaty on European Union (TEU) and the Treaty on the Functioning of the Union (TFEU) in Relation to EU Justice and Home Affairs (JHA) Matters (1 December 2016 – 30 November 2017)

February 2018



**Eighth Annual Report to Parliament on the Application
of Protocols 19 and 21 to the Treaty on European Union
(TEU) and the Treaty on the Functioning of the Union
(TFEU) in Relation to EU Justice and Home Affairs
(JHA) Matters (1 December 2016 – 30 November 2017)**

Presented to Parliament
by the Lord Chancellor and Secretary of State for Justice
by Command of Her Majesty

February 2018



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Any enquiries regarding this publication should be sent to us at

Europe Division
Ministry of Justice
102 Petty France- 3rd Floor
London
SW1H 9AJ

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The JHA Opt-in Protocol and Schengen Opt-out Protocol

The UK's participation in EU JHA measures is principally governed by Protocols 19 (Schengen opt-out) and 21 (JHA opt-in) to the TEU and the TFEU, which allow the UK to choose whether to participate in such measures. A decision to opt into a new legislative proposal under Protocol 21 must be communicated in writing to the President of the Council within three months of the date on which the final language version of the proposal is published by the Council. The Government does not, however, need to inform the Council if it decides not to opt into a legislative proposal. Where the proposed measure builds on part of the Schengen acquis in which the UK participates, the UK has three months to opt out and, again, notify the President of the Council of that decision.

This report covers decisions taken under the two protocols over the period 1 December 2016 – 30 November 2017.

Government commitments on Parliamentary scrutiny of the JHA Opt-in

On 9 June 2008, Baroness Ashton, then Leader of the House of Lords, outlined in a Written Ministerial Statement (WMS) various commitments to enhance Parliamentary scrutiny of JHA opt-in decisions. This also included the commitment to provide an annual report on decisions made in relation to the JHA opt-in under Protocol 21 and Schengen opt-out under Protocol 19. Both Protocols give the UK the right to choose whether or not to participate in certain JHA new measures.

The first annual report to Parliament on the Application of Protocols 19 and 21 to the Treaty on European Union (TEU) and the Treaty on the Functioning of the Union (TFEU) in relation to EU Justice and Home Affairs (JHA) matters was submitted in January 2011. This covered the period 1 December 2009 to 30 November 2010. The second, third, fourth and fifth annual reports were submitted in January 2012, April 2013, January 2014 and February 2015 respectively. These reports were each preceded by a mid-year update. The sixth and seventh annual reports were submitted together in July 2017.

In his WMS on 20 January 2011, the Minister for Europe outlined the Coalition Government's intention to continue to honour the commitments made by Baroness Ashton and to further strengthen Parliamentary scrutiny of JHA opt-in decisions. This included a commitment to deposit a WMS in Parliament on all opt-in decisions or to make an oral statement where appropriate and necessary; reiterated the existing right of the House of Commons European Scrutiny Committee and House of Lords European Union Select Committee ('the Committees') to call a debate on an amendable motion on any opt-in decision; and, where there is strong Parliamentary interest, the Government expressed its willingness to set aside Government time for a debate in both Houses on its proposed approach (a "Lidington debate"). All of these commitments apply equally to the Schengen Opt-out Protocol.

Where the UK has not opted in within the initial three-month window, it is open to the Government to indicate its wish to be bound by measures after they have been adopted by the participating Member States. In such cases it will inform the Committees of its intention to do so. The Committees will have an opportunity to offer views on this. The Government will also consider offering a debate on Government time on a post adoption opt-in decision if it is likely to attract significant Parliamentary interest.

Code of Practice

Baroness Ashton's statement also included a commitment to produce a Code of Practice setting out the Government's commitment to effective scrutiny of opt-in decisions. The Code, which includes the commitments the Government made in January 2011 to further enhance scrutiny arrangements, was published in May 2013 and has now been included in the cross-Government scrutiny guidance and is also available on the JHA opt-in webpage at:

<https://www.gov.uk/government/publications/jha-opt-in-and-schengen-opt-out-protocols--3>

JHA opt-in decisions and Schengen opt-out decisions from the period 1 December 2016 – 30 November 2017

The table in the **Annex** presents all JHA opt-in decisions and Schengen opt-out decisions taken from 1 December 2016 until 30 November 2017.

In that period, the government has taken decisions on UK participation in a total of 19 EU JHA legislative proposals. The UK has decided to opt in under the JHA opt-in Protocol in 12 cases and has decided not to opt in in five cases. The Government has asserted the Schengen opt-out in two decisions – the decision on both occasions was not to opt out (i.e. to participate in the measures).

It is worth noting that the lead on these proposals falls to a wide range of Departments.

Key opt-in decisions made by the Government

Decisions of particular prominence last year included Regulations on: the **European Criminal Records System (ECRIS) – Third Country Nationals (TCN); Mutual Recognition of Freezing and Confiscation Orders**; and, on the establishment, operation and use of the **Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters** (amending and repealing previous measures or Decisions):

The Commission proposed a **Regulation establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRIS-TCN system)**. ECRIS does not lend itself to efficient criminal records exchange with regard to TCNs as Member States must send requests to all other Member States individually in order to capture all EU-wide criminality. The proposed Regulation addresses this by creating a centralised identification system to streamline the process for Member States to identify which Member State(s) hold information with regard to TCNs, thus making criminal records exchange for TCNs more efficient and ensuring that criminal justice and law enforcement agencies have more information available to them than they do at present. The Government supports the extension of ECRIS to cover TCNs and opted into this measure on 23 October 2017.

The Commission also proposed a **Regulation on mutual recognition of freezing and confiscation orders**. This will enable the UK to fulfil part of its serious organised crime strategy by facilitating recovery of criminal monies used in money laundering or as terrorist finance. It will strengthen the ability of our operational agencies to have orders recognised and executed, particularly in countries which have been slower to assist in cross-border asset recovery cases. Opting into this measure is consistent with the UK's approach to participating in EU mutual recognition measures to improve practical co-operation between Member States and shows our ongoing commitment to work together with our European partners to fight crime and prevent terrorism now and after we leave the European Union. The Government opted into this measure on 12 June 2017.

The proposed **Schengen Information System (SIS) police co-operation Regulation** gave rise to a decision under the Schengen opt-out process. It will replace the legislation that currently governs SIS II's use for police cooperation, in which the UK has participated since April 2015. Our law enforcement agencies benefit from this, for example by being able to detain at the border people who are wanted under European Arrest Warrants and to obtain intelligence from police forces across the EU on suspected criminals and security risks. The draft Regulation contains a number of proposals that would update SIS II's capabilities, for example allowing it to store a wider range of biometric data and permitting alerts to be created to protect children who are at risk of going missing. There are some changes we will seek, in particular to maintain Member States' control over when alerts are created, but the Government believes we will be in a better position to do this by not opting out and remaining fully part of the measure.

**Lord Chancellor and Secretary of State for Justice
and Secretary of State for the Home Department**

Opt-in Decisions 1 December 2016 – 30 November 2017

Proposal		Decision making process		
1	Proposal for a COUNCIL DECISION authorising conclusion of the Strategic Partnership Agreement between the European Union and its Member States, of the one part, and Canada, of the other part	Legal base(s):	Article 37 TEU, Article 212 TFEU read in conjunction with Article 218(6a) TFEU and the second subparagraph of Article 218(8) TFEU	<p>The Strategic Partnership Agreement (SPA) will update the previous EU-Canada 1976 framework agreement for commercial and economic co-operation between the European Communities and Canada. It has two aims: i) to enhance EU-Canada political ties and co-operation on foreign and security policy issues; and ii) to upgrade co-operation on a wide range of other areas. The SPA, though not technically linked to the EU-Canada Comprehensive Economic Trade agreement (CETA), is complementary and will provide wider benefits to the EU-Canada relationship.</p> <p>The SPA has been under negotiation, between the EU, its Member States and Canada, since 2011. The draft Council decision on conclusion issued on 24 November 2016. Notwithstanding the result of the referendum on EU membership the Government considers that it is in the UK's interests to opt in to Article 18(2) of this agreement at the conclusion stage of the SPA negotiations. Article 18(2) of the agreement provides for judicial co-operation in civil and commercial matters. While it is not specific about the type of co-operation that might be envisaged, the Government believes that it is beneficial for the UK to be involved in any such work between the EU and one of our closest Commonwealth partners while we remain a member of the European Union.</p>
		Reference:	14763/16	
		Lead Department:	FCO	
		Date of publication	24/11/2016	
		Date of deposit:	14/12/2016	
		Date of EM:	15/12/2016	
		Opt-in (or Schengen opt-out) deadline:	23/02/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	24/01/2017	
		Date Parliament informed of decision:	20/07/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
2	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005	Legal base(s):	Article 33 and 114 TFEU	The Government decided that it is in the UK's interest to opt in to the Justice and Home Affairs obligations within this Regulation as the provisions strengthen the existing regulations, and will enhance border security without imposing disproportionate burdens on business. The proposed new Regulation will reinforce the existing controls of cash moving across EU borders, bringing these controls in line with international norms and best practices for addressing evolving forms of criminality. Until the UK leaves the EU it remains a full and participating member. We will continue to work with the EU institutions, with the aim of ensuring that UK objectives are preserved as the negotiations progress on any compromise text.
		Reference:	15819/16	
		Lead Department:	HMRC	
		Date of publication:	12/01/2017	
		Date of deposit:	28/12/2016	
		Date of EM:	16/01/2016	
		Opt-in (or Schengen opt-out) deadline:	11/04/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	11/04/2017	
		Date Parliament informed of decision:	19/12/2017	
	Parliamentary debates: ESC/EUC debate recommended and date(s) debate(s) took place	None		
3	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on countering money laundering by criminal law	Legal base(s): Legal basis with EU Treaties quoted in proposal e.g. Article 81	Article 83(1) TFEU	The UK's domestic legislation is already largely compliant with the Directive's measures, and in relation to the offences and sentences set out in the Directive, the UK already goes much further. Therefore, the Government decided not to opt in as we did not consider that opting in would enhance the UK approach to tackling money laundering.
		Reference:	15782/16	
		Lead Department:	HO	
		Date of publication:	03/02/2017	
		Date of deposit:	29/12/2016	
		Date of EM:	12/01/2017	

Proposal		Decision making process		
		Opt-in (or Schengen opt-out) deadline:	02/05/2017	
		Opt-in (or Schengen opt-out) decision	Did not opt in	
		Date opt-in notified to EU:	N/A	
		Date Parliament informed of decision:	Informed by letter 11/09/2017	
		Parliamentary debates:	None	
4	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL adapting a number of legal acts in the area of Justice providing for the use of the Regulatory Procedure with Scrutiny to Article 290 of the Treaty of the European Union	Legal base(s): Legal basis with EU Treaties quoted in proposal e.g. Article 81	Article 81 TFEU	<p>The Government opted in to a proposal to change the updating mechanism of three civil judicial cooperation Regulations from the comitology procedure to the post-Lisbon Treaty Delegated and Implementing Act procedure. These are technical adjustments that are part of a wider effort to modernise legislation, which the UK supports.</p> <p>The relevant Regulations are the 2001 Regulation on taking evidence in other Member States to allow for a court in one member state to request to take evidence to another; the 2004 Regulation that created that European Enforcement Order; and the 2007 Regulation on service of documents to allow the service of judicial documents from one Member State to another.</p> <p>The substance and effect of these three Regulations will not change, but become subject to the same updating procedures as apply to other, post-Lisbon Regulations (a committee composed of representatives from all EU countries providing a formal opinion, usually in the form of a vote, on the Commission's proposed measures).</p>
		Reference:	5705/17	
		Lead Department:	MoJ/FCO/ DEXEU	
		Date of publication:	13/03/2017	
		Date of deposit:	30/01/2017	
		Date of EM:	13/02/2017	
		Opt-in (or Schengen opt-out) deadline:	12/06/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	12/06/2016	
		Date Parliament informed of decision:	19/07/2017	
		Parliamentary debates:	None	

Proposal		Decision making process		
5	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the mutual recognition of freezing and confiscation orders	Legal base(s):	Article 82(1) TFEU	Through our serious organised crime strategy and action plan for anti-money laundering and counter terrorist finance, we have made it clear that being able to recover criminal monies is a priority. The proposed Regulation will bring benefits to the UK through strengthening the ability of our operational agencies to have our orders recognised and executed, particularly in countries which have traditionally been slower to assist in cross-border asset recovery cases. The UK's experience of the existing framework decisions has been positive, although numbers of mutual recognition requests are limited due to the short time that the decisions have been fully transposed in UK law (since 2014. Asset recovery in some EU states has traditionally been difficult through mutual legal assistance routes, which are lengthy and cumbersome. Opting into this measure is also consistent with the UK's approach to participating in EU mutual recognition measures to improve practical co-operation between Member States. Opting in at this point shows our continued positive engagement with this measure, and demonstrates our commitment to work together with our European partners to fight crime and prevent terrorism now and after we leave the European Union.
		Reference:	15816/16	
		Lead Department:	HO	
		Date of publication:	13/03/2017	
		Date of deposit:	29/12/2016	
		Date of EM:	12/01/2017	
		Opt-in (or Schengen opt-out) deadline:	12/06/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	12/06/2017	
		Date Parliament informed of decision:	20/07/2017	
Parliamentary debates:	None			
6	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the use of the Schengen Information System for the return of illegally staying third-country nationals	Legal base(s):	Article 79(2) TFEU	The proposed Returns Regulation would allow Member States to use SIS II to circulate alerts on non-EEA nationals who have been made subject to removal decisions. In practice we would not have been able to participate in the measure without also joining the 2008 Returns Directive, which would have placed our returns processes under the jurisdiction of EU law and the CJEU. This was not acceptable to the Government and therefore the UK did not opt in to this draft Regulation.
		Reference:	15812/16	
		Lead Department:	HO	
		Date of publication:	03/04/2017	
		Date of deposit:	28/12/2016	
		Date of EM:	19/01/2017	
		Opt-in (or Schengen opt-out) deadline:	02/07/2017	
		Opt-in (or Schengen opt-out) decision	Did not opt in	

Proposal		Decision making process	
		Date opt-in notified to EU:	N/A
		Date Parliament informed of decision:	20/07/2017
		Parliamentary debates:	19/12/2017
7	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the establishment, operation and use of the Schengen Information System in the field of police cooperation and judicial cooperation in criminal matters , amending Regulation (EU) No 515/2014 and repealing Regulation (EC) No 1986/2006, Council Decision 2007/533/JHA and Commission Decision 2010/261/EU	Legal base(s):	Articles 82(1) second subparagraph point (d), 85(1), 87(2)(a) and 88(2)(a) TFEU
		Reference	15814/16
		Lead Department:	HO
		Date of publication:	03/04/2017
		Date of deposit:	28/12/2016
		Date of EM:	12/01/2017
		Opt-in (or Schengen opt-out) deadline:	02/07/2017
		Opt-in (or Schengen opt-out) decision	Did not opt out
		Date opt-in notified to EU:	N/A
		Date Parliament informed of decision:	20/07/2017
		Parliamentary debates:	19/12/2017
			The proposed Police Co-operation Regulation will replace the legislation that currently governs SIS II's use for that purpose. The UK has participated in this aspect of SIS II since April 2015. Our law enforcement agencies benefit from this, for example by being able to detain at the border people who are wanted under European Arrest Warrants and to obtain intelligence from police forces across the EU on suspected criminals and security risks. The draft Regulation contains a number of proposals that would update SIS II's capabilities, for example allowing it to store a wider range of biometric data and permitting alerts to be created to protect children who are at risk of going missing. There are some changes we will seek, in particular to maintain Member States' control over when alerts are created, but the Government believes we will be in a better position to do this by not opting out and remaining full participants in the negotiation.

Proposal		Decision making process		
8	Proposal for a Regulation amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS) - separate Europol amending regulation for watchlist	Legal base(s):	Article 77(2)(b) and (d) TFEU Article 87(2)(a) TFEU Article 88(2)(a) TFEU	<p>The Government has decided not to opt-in to the proposal for a Regulation amending Regulation (EU) 2016/794 for the purpose of establishing a European Travel Information and Authorisation System (ETIAS) watchlist.</p> <p>As the UK does not participate in ETIAS itself, we do not expect to have direct access to the watchlist through this process. The Government also notes that there are a number of issues still to be resolved with regard to how the watchlist will be hosted by Europol and how it will function. As such, it is not clear whether opting-in could place any additional obligations on the UK. For these reasons, the Government has decided not to opt-in to the amending Regulation at this time.</p> <p>Not opting in will not affect the operability of the Europol Regulation for the UK.</p>
		Reference	9763/17 ADD 1	
		Lead Department:	HO	
		Date of publication:	22/05/2017	
		Date of deposit:	21/06/2017	
		Date of EM:	21/06/2017	
		Opt-in (or Schengen opt-out) deadline:	21/08/2017	
		Opt-in (or Schengen opt-out) decision	Did not opt in	
		Date opt-in notified to EU:	N/A	
		Date Parliament informed of decision:	16/01/2018	
Parliamentary debates:	None			
9	Recommendation for a COUNCIL DECISION authorising the opening of negotiations on the conclusion of an instrument on the enforcement of international commercial settlement agreements resulting from conciliation in the	Legal base(s):	Article 81 TFEU Article 218(3) and (4) TFEU	<p>This Council Decision is the agreement of EU Member States to an EU negotiating mandate which sets out the position of the EU in discussions in UNCITRAL on a possible Convention and Model Law on the enforcement of international commercial settlement agreements resulting from conciliation. The Government is not at present convinced of the need for instruments in this area. Without prejudice to whether the UK chooses later to become party to either, the UK is participating actively in the negotiations to make sure whatever is agreed is practical and respects the way that our conciliators operate. Even if the UK applies neither instrument, UK conciliators undertaking conciliation for parties</p>
		Reference	9336/17	
		Lead Department:	MoJ	
		Date of publication:	29/05/2017	
		Date of deposit:	N/A - As this is a negotiating mandate it isn't deposited	

Proposal		Decision making process		
	framework of the United Nations Commission on International Trade Law (UNCITRAL)	Date of EM:	N/A - As this is a negotiating mandate it isn't deposited	from countries that do may be caught by the provisions. Opting in to the EU negotiating mandate does not commit the UK Government to apply any agreed Model Law nor to accede to any future Convention.
		Opt-in (or Schengen opt-out) deadline:	28/08/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	25/08/2017	
		Date Parliament informed of decision:	21/12/2017	
		Parliamentary debates:	None	
10	COUNCIL DECISION on UNHCR Executive Committee conclusions on machine readable travel documents for refugees and stateless persons	Legal base(s):	Article 78(2) and 218(9) TFEU	The UK already offers travel documents to recognised refugees and stateless persons which exceeds the recommendation to issue machine-readable travel documents. Home Office travel documents are machine-readable and also include a biometric chip that contains a digital facial image of the document holder, similar to the British passport. Furthermore, the UK already complies with the points on costs of refugee travel documents; we align with the 1951 and 1954 UN Conventions which state that signatory states should charge no more than is charged for a national passport. As the UK is compliant with the conclusions, the UK has decided not to opt in to this Council Decision.
		Reference	12163/17	
		Lead Department:	HO	
		Date of publication:	25/09/2017	
		Date of deposit:	19/09/2017	
		Date of EM:	20/09/2017	
		Opt-in (or Schengen opt-out) deadline:	Before adoption at the GAC on 25 September	
		Opt-in (or Schengen opt-out) decision	Did not opt in	
		Date opt-in notified to EU:	N/A	
		Date Parliament informed of decision:	11/12/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
11	Proposal for a COUNCIL DECISION Authorising RO to accept accession of Chile, Iceland & Bahamas to the 1980 Hague Convention on Civil Aspects of International Child Abduction.	Legal base(s):	Article 81(3) and Article 218 TFEU	<p>The UK has already accepted all of the named countries, and therefore these Council Decisions do not instruct the UK to take any action.</p> <p>All EU Member States are party to the 1980 Hague Convention, the primary civil law international instrument which provides a mechanism to seek the prompt return of wrongfully removed or retained children to their country of habitual residence.</p> <p>When a country wishes to accede to the convention, it is necessary for an existing contracting state to accept that country's accession before the convention can apply between them. It is the European Commission's view that there is exclusive competence on the EU for all matters relating to the 1980 Convention and that therefore Member States must be authorised by the EU to accept accessions by third countries and must do so collectively through Council decisions.</p> <p>Although not anticipated in the proposals, the Government believe that the UK opt-in under the protocol to title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so.</p> <p>The Government has taken this decision notwithstanding the fact that they dispute the Commission's claim to exclusive competence.</p> <p>The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the EU Council.</p>
		Reference	11309/17	
		Lead Department:	FCO	
		Date of publication:	18/07/2017	
		Date of deposit:	18/07/2017	
		Date of EM:	31/07/2017	
		Opt-in (or Schengen opt-out) deadline:	17/10/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	13/10/2017	
		Date Parliament informed of decision:	30/11/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
12	Proposal for a COUNCIL DECISION Authorising Luxembourg & Romania to accept the accession of Georgia and South Africa to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.	Legal base(s):	Article 81(3) and Article 218 TFEU	<p>The UK has already accepted all of the named countries, and therefore these Council Decisions do not instruct the UK to take any action.</p> <p>All EU member states are party to the 1980 Hague Convention, the primary civil law international instrument which provides a mechanism to seek the prompt return of wrongfully removed or retained children to their country of habitual residence.</p> <p>When a country wishes to accede to the Convention, it is necessary for an existing contracting state to accept that country's accession before the convention can apply between them. It is the European Commission's view that there is exclusive competence on the EU for all matters relating to the 1980 Convention and that therefore Member States must be authorised by the EU to accept accessions by third countries and must do so collectively through Council decisions.</p> <p>Although not anticipated in the proposals, the Government believe that the UK opt-in under the protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so.</p> <p>The Government has taken this decision notwithstanding the fact that they dispute the Commission's claim to exclusive competence.</p> <p>The Government believe that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the EU Council.</p>
		Reference	11305/17	
		Lead Department:	FCO	
		Date of publication:	18/07/2017	
		Date of deposit:	18/07/2017	
		Date of EM:	31/07/2017	
		Opt-in (or Schengen opt-out) deadline:	17/10/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	13/10/2017	
		Date Parliament informed of decision:	30/11/2017	
	Parliamentary debates:	None		

Proposal		Decision making process		
13	Proposal for a COUNCIL DECISION Authorising Croatia, the Netherlands, Portugal and Romania to accept the accession of San Marino to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.	Legal base(s):	Article 81(3) and Article 218 TFEU	<p>The UK has already accepted all of the named countries, and therefore these Council Decisions do not instruct the UK to take any action.</p> <p>All EU member states are party to the 1980 Hague convention, the primary civil law international instrument which provides a mechanism to seek the prompt return of wrongfully removed or retained children to their country of habitual residence.</p> <p>When a country wishes to accede to the convention, it is necessary for an existing contracting state to accept that country's accession before the convention can apply between them. It is the European Commission's view that there is exclusive competence on the EU for all matters relating to the 1980 Convention and that therefore member states must be authorised by the EU to accept accessions by third countries and must do so collectively through Council decisions.</p> <p>Although not anticipated in the proposals, the Government believe that the UK opt-in under the protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so.</p> <p>The Government has taken this decision notwithstanding the fact that they dispute the Commission's claim to exclusive competence.</p> <p>The Government believes that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the EU Council.</p>
		Reference	11307/17	
		Lead Department:	FCO	
		Date of publication:	18/07/2017	
		Date of deposit:	18/07/2017	
		Date of EM:	31/07/2017	
		Opt-in (or Schengen opt-out) deadline:	17/10/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	13/10/2017	
		Date Parliament informed of decision:	30/11/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
14	Proposal for a COUNCIL DECISION Authorising Austria and Romania to accept accession of Panama, Uruguay, Colombia and El Salvador to the 1980 Hague Convention on Civil Aspects of International Child Abduction.	Legal base(s):	Article 81(3) and Article 218 TFEU	<p>The UK has already accepted all of the named countries, and therefore these Council Decisions do not instruct the UK to take any action.</p> <p>All EU Member States are party to the 1980 Hague Convention, the primary civil law international instrument which provides a mechanism to seek the prompt return of wrongfully removed or retained children to their country of habitual residence.</p> <p>When a country wishes to accede to the Convention, it is necessary for an existing contracting state to accept that country's accession before the convention can apply between them. It is the European Commission's view that there is exclusive competence on the EU for all matters relating to the 1980 Convention and that therefore Member States must be authorised by the EU to accept accessions by third countries and must do so collectively through Council decisions.</p> <p>Although not anticipated in the proposals, the Government believe that the UK opt-in under the protocol to Title V of the Treaty on the Functioning of the European Union applies and it has therefore asserted its right to choose whether to opt in and has decided that it is in the UK's best interests to do so.</p> <p>The Government have taken this decision notwithstanding the fact that they dispute the Commission's claim to exclusive competence.</p> <p>The Government believes that the wider significance of these proposals for external competence mean that it is in the UK's interests to participate fully in these negotiations, including having the ability to vote. These proposals must be agreed by unanimity within the EU Council.</p>
		Reference	11311/17	
		Lead Department:	FCO	
		Date of publication:	18/07/2017	
		Date of deposit:	18/07/2017	
		Date of EM:	31/07/2017	
		Opt-in (or Schengen opt-out) deadline:	17/10/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	13/10/2017	
		Date Parliament informed of decision:	30/11/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
15	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a centralised system for the identification of Member States holding conviction information on third country nationals and stateless persons (TCN) to supplement and support the European Criminal Records Information System (ECRISTCN system) and amending Regulation (EU) No 1077/2011	Legal base(s):	Article 82(1)(d) TFEU	<p>ECRIS already allows for the exchange of criminal records information across the EU and establishes an EU-wide offending history for EU nationals. It supports effective criminal justice decisions which ensure that relevant public protection measures are considered. While ECRIS is well established in obtaining criminal records information in respect of EU nationals, it does not lend itself to efficient exchange with regard to TCNs. This is because Member States must send requests to all Member States individually in order to capture all EU criminality.</p> <p>To address this, the new draft Regulation will create a centralised identification system which will allow Member States to make searches to identify the Member State or States who hold conviction information on TCNs and envisages the existing ECRIS decentralised mechanism being relied upon to then request this information from the relevant Member State(s). This draft Regulation therefore will increase the efficiency of the process and help ensure that our law enforcement agencies have more information available to them when they encounter TCNs than they do at present. The Government supports the extension of ECRIS to cover TCNs and opted into this measure.</p>
		Reference	10940/17	
		Lead Department:	HO	
		Date of publication:	27/07/2017	
		Date of deposit:	05/07/2017	
		Date of EM:	19/07/2017	
		Opt-in (or Schengen opt-out) deadline:	24/10/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	23/10/2017	
Date Parliament informed of decision:	02/11/2017			
Parliamentary debates:	None			
16	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, and amending	Legal base(s):	Articles 74, 77(2)(a) and (b), 78(2)(e), 79(2)(c), 82(1)(d), 85(1), 87(2)(a) and Article 88(2) TFEU	<p>The draft eu-LISA Regulation would repeal and replace the current Regulation governing the agency, making a number of changes. These include giving eu-LISA responsibility for managing the proposed ECRIS-TCN system (as well as a number of new measures that we do not take part in as they build on the border and immigration aspects of Schengen); making minor amendments to its governance; and other amendments around data quality and the interoperability of systems.</p> <p>Because eu-LISA manages, or will manage, some systems that build on the Schengen acquis (for example, SIS II) and some that do not (EURODAC and the proposed ECRIS-TCN system), the draft Regulation governing it engages both our justice and home</p>
		Reference	10820/17	
		Lead Department:	HO	
		Date of publication:	01/08/2017	
		Date of deposit:	03/07/2017	
		Date of EM:	20/07/2017	

Proposal		Decision making process		
	Regulation (EC) 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) 1077/2011	Opt-in (or Schengen opt-out) deadline:	31/10/2017	affairs opt-in and our opt-out from measures building on the policing and judicial co-operation aspects of Schengen.
		Opt-in (or Schengen opt-out) decision	Opted in and did not opt out	The Government believes it is in the national interest to continue participating in eu-LISA, as this will maximise our influence over how it operates the IT systems that we take part in and for which it is responsible. The government has therefore decided to opt in to the draft eu-LISA Regulation to the extent that it is not Schengen-building and not to opt out to the extent that it builds on the policing and judicial co-operation aspects of Schengen.
		Date opt-in notified to EU:	23/10/2017	
		Date Parliament informed of decision:	02/11/2017	
		Parliamentary debates:	None	
17	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL replacing Annex A to Regulation (EU) 2015/848 on insolvency proceedings	Legal base(s):	Article 81 (2) (a), (c) and (f) TFEU	The UK has opted in to the proposal for a Regulation of the European Parliament and of the Council updating the lists of insolvency proceedings and insolvency officeholders in annexes A and B to regulation (EU) 2015/848 on insolvency proceedings. The UK had previously opted in to the underlying Regulation on insolvency proceedings in 2015. Amendments to the annexes of the Regulation trigger a new opt-in decision.
		Reference	11667/17	
		Lead Department:	Insolvency Service	The annexes list the different insolvency procedures and insolvency office-holders in each Member State governed by the Regulation. Amendments are made from time to time to reflect changes to Member States' domestic insolvency laws. The current proposal relates to new Belgian, Bulgarian, Croatian, Latvian and Portuguese insolvency procedures and the amendments are considered necessary to ensure that the lists of member states' domestic insolvency laws are kept up to date. The Government agrees with the European Commission's assessment that they properly fall within the scope of insolvency proceedings governed by the Regulation.
		Date of publication:	16/08/2017	
		Date of deposit:	15/08/2017	
		Date of EM:	30/08/2017	
		Opt-in (or Schengen opt-out) deadline:	15/11/2017	
		Opt-in (or Schengen opt-out) decision	Opted in	
		Date opt-in notified to EU:	15/11/2017	
		Date Parliament informed of decision:	06/12/2017	
Parliamentary debates:	None			

Proposal		Decision making process		
18	Proposal for a COUNCIL DECISION on the conclusion, on behalf of the European Union, of the Council of Europe Convention on the manipulation of sports competitions with regard to matters related to substantive criminal law and judicial cooperation in criminal matters	Legal base(s):	Articles 82(1), 83(1) TFEU in conjunction with Article 218(6)(a) TFEU	This EU proposal for conclusion follows a 2015 EU proposal for signature which was never taken forward for adoption. The UK position at the time of the 2015 proposal was essentially that there was no need for a JHA decision and so the Government position was to not opt in. With only one preliminary discussion having taken place on this 2017 proposal where no strong arguments were advanced by the EU as to why this new JHA proposal was being brought forward, the Government has decided to maintain its position to not opt in and a scrutiny reservation on the text remains in place with there being no timeline for any further discussions.
		Reference	11724/17	
		Lead Department:	DCMS	
		Date of publication:	25/08/2017	
		Date of deposit:	29/08/2017	
		Date of EM:	15/12/2017	
		Opt-in (or Schengen opt-out) deadline:	24/11/2017	
		Opt-in (or Schengen opt-out) decision	Did not opt in	
		Date opt-in notified to EU:	N/A	
		Date Parliament informed of decision:	By Explanatory Memorandum of 15/12/2017	
	Parliamentary debates:	None		

Forthcoming opt-in decisions

Proposal Title	Description
Interoperability between EU information systems (police and judicial cooperation, asylum and migration)	A proposed Regulation to improve the overall architecture of information sharing by the establishment of a European search portal, a shared biometric matching service, a common identity repository and a multiple-identity detector. Opt-in deadline 21 May.
x8 Europol 3rd country agreements - Exchange of personal data between Europol and Tunisia, Morocco, Egypt, Algeria, Turkey, Jordan, Lebanon, and Israel	Council Decisions authorising the opening of negotiations for data sharing agreements with third countries to allow them to share data with Europol. Opt-in deadline tbc.
EU-Canada PNR (Passenger Name Records)	Further Council Decisions on the signature and conclusion of negotiations to allow EU air carriers to transfer passenger information to Canada in line with the requirements laid down in a CJEU judgment. Expected 2017.
Eurojust (post-adoption opt-in decision)	Following adoption of the Eurojust Regulation, the UK will need to consider whether to opt in post-adoption to the Regulation. Eurojust promotes cooperation and coordination between the competent judicial authorities in the EU Member States involved in investigations and prosecutions of serious cross-border criminal cases
E-evidence	Expected Regulation from the Commission aiming to improve access to e-evidence held by communication service providers across borders for use in criminal investigations and prosecutions.

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