



House of Commons

European Scrutiny Committee

**The 2014 block opt-out
— engaging with
Parliament:
Government Response
to the Committee's
Thirty-seventh Report
of Session 2012-13**

**First Special Report of Session 2013–
14**

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The European Scrutiny Committee

The European Scrutiny Committee is appointed under Standing Order No.143 to examine European Union documents and—

- a) to report its opinion on the legal and political importance of each such document and, where it considers appropriate, to report also on the reasons for its opinion and on any matters of principle, policy or law which may be affected;
- b) to make recommendations for the further consideration of any such document pursuant to Standing Order No. 119 (European Committees); and
- c) to consider any issue arising upon any such document or group of documents, or related matters.

The expression “European Union document” covers —

- i) any proposal under the Community Treaties for legislation by the Council or the Council acting jointly with the European Parliament;
- ii) any document which is published for submission to the European Council, the Council or the European Central Bank;
- iii) any proposal for a common strategy, a joint action or a common position under Title V of the Treaty on European Union which is prepared for submission to the Council or to the European Council;
- iv) any proposal for a common position, framework decision, decision or a convention under Title VI of the Treaty on European Union which is prepared for submission to the Council;
- v) any document (not falling within (ii), (iii) or (iv) above) which is published by one Union institution for or with a view to submission to another Union institution and which does not relate exclusively to consideration of any proposal for legislation;
- vi) any other document relating to European Union matters deposited in the House by a Minister of the Crown.

The Committee’s powers are set out in Standing Order No. 143.

The scrutiny reserve resolution, passed by the House, provides that Ministers should not give agreement to EU proposals which have not been cleared by the European Scrutiny Committee, or on which, when they have been recommended by the Committee for debate, the House has not yet agreed a resolution. The scrutiny reserve resolution is printed with the House’s Standing Orders, which are available at www.parliament.uk.

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The following member was also a member of the Committee during the Parliament:

Sandra Osborne MP (*Labour, Ayr, Carrick and Cumnock*)

First Special Report

On 22 March 2013 the European Scrutiny Committee published its Thirty-seventh Report of Session 2012-13, *The 2014 block opt-out: engaging with Parliament* as House of Commons Paper No. 798. The Government sent its response on 21 May 2013, which we publish as an Appendix to this Special Report.

Appendix: Government response

From the Rt Hon Mrs Theresa May MP, Home Secretary, and the Rt Hon Chris Grayling MP, Lord Chancellor and Secretary of State for Justice, to William Cash, Chair, European Scrutiny Committee:

We noted your Committee's report on the UK's 2014 block opt-out decision (the '2014 decision') with interest; you will find our response attached to this letter. We are grateful for your ongoing work on this issue.

Following further informal technical discussions with the EU Institutions, we would like to draw your attention to some small changes to the list of measures within the scope of the 2014 decision. Firstly, the following measures have been removed from the list as these have been repealed and replaced by post-Lisbon measures in which we participate:

- Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings (number 28); and
- Commission Decision 2008/334/JHA of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) (number 130).

Additionally, the following measure has been identified as falling within scope of the 2014 decision:

- Council Decision 2003/659/JHA amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime (number 136)

This measure is linked to the two existing Eurojust measures (numbers 35 and 77 on the annexed list) and should be considered alongside these. Discussions have also highlighted the need for a technical clarification to the list in relation to the EU - US Agreements on mutual legal assistance and extradition (numbers 101 and 102 on the list). As such, the signature and conclusion decisions relating to these measures are now included on the list. This has no impact on the number of measures subject to the 2014 decision or its substance and is purely a technical change.

We would also like to draw your attention to Council Decision 2006/317/CFSP of 10 April 2006 concerning the conclusion of the Agreement between the European Union and the

Republic of Croatia on security procedures for the exchange of classified information (number 70), which will become defunct on 1 July when Croatia accedes to the EU.

The list of measures has been amended to reflect these changes and is attached to this letter. A copy has also been placed in the House Library.

21 May 2013

Annex A

Government response to the Committee’s report of 22 March 2013 — ‘The 2014 block opt-out: engaging with Parliament’

We are grateful to the European Scrutiny Committee for its ongoing work on the UK’s possible block opt-out of pre-Lisbon police and criminal justice measures (the ‘2014 decision’). Your report (‘The 2014 block opt-out: engaging with Parliament’) makes a number of points regarding the Government’s engagement with Parliament. We have considered these points and our response is provided below.

A failure to honour commitments to Parliament

We have been clear throughout this process that Parliament should play a full and active role in helping to inform our consideration of this issue. We regret that it has not been possible to maintain the timetable outlined in December for producing the five Explanatory Memoranda (EMs) covering the measures within scope of the 2014 decision. We are committed to providing you with these EMs as soon as possible, but wish to ensure that these are as informative and useful to your Committee as possible. (1.6)

You note in your report that “substantive discussions are underway with the Commission and other Member States”. While we have started informal discussions with the Commission and Council Secretariat, these discussions have so far focussed on the technical and legal aspects of the decision in order to create a shared understanding of the process around the 2014 decision. We have also been continuing to engage with our EU partners to better understand their views on the measures within scope of the 2014 decision. (1.6)

You suggest that the exercise in identifying measures the UK should seek to rejoin should be conducted with the utmost transparency. We can assure you that we remain committed to providing as much information as possible to Parliament as soon as is practical. As you rightly point out, some of these measures raise issues about public safety and security, as well as the protection of individual rights; it is for these reasons that the work to analyse the measures subject to the 2014 decision is so complex. (1.7)

We have been clear throughout this process that we do not need to remain bound by all the measures within scope of the 2014 decision; as the Home Secretary outlined in her Statement on 15 October, operational experience has shown that while some of the measures are useful, some are less so, and others are defunct. We have been working with operational partners to establish which measures they feel are of particular importance, as they have first-hand experience of how these measures work in practice. We have also been clear that we have we need to give further consideration to the implications of European

Court of Justice (ECJ) jurisdiction and Commission enforcement powers over these measures, given that they were mostly drafted without ECJ jurisdiction in mind. (1.7)

Information necessary for effective Parliamentary engagement

It was useful to receive your view on the debate and vote on the 2014 decision. We are happy to reaffirm our commitment to consulting with your Committee — and the other relevant Committees — on the arrangements for the vote. We look forward to further discussions in this regard. (1.8)

In your report, you outline further information the Government should provide in order to ensure Parliament can play a full and active role in this process.

As noted earlier, we have committed to providing five EMs on the measures within the scope of the 2014 decision. You ask that we confirm that these will include information regarding the possible interaction between measures, their actual or potential operational significance for cross-border cooperation between the UK and other Member States in terms of combating serious crime and enhancing public safety, and their implications for the rights of individuals. We will do our utmost to ensure the EMs are as comprehensive as possible. (1.8)

You ask for an indication of the measures — or categories of measures — which the Government is considering rejoining, to be followed at a later stage by a more definitive list of the measures it intends to seek to rejoin. As we outlined when we gave evidence to the House of Lords European Union Committee in February, discussions within Government are ongoing regarding those measures the UK may seek to rejoin and no final decisions have been made in this regard. We will provide further information as soon as is practical. (1.8)

Finally, you ask for confirmation that the Government will provide a full assessment of the costs and benefits associated with non-participation in individual measures which the Government does not intend to rejoin. At his appearance before your Committee on 28 November, the Minister for Security gave an undertaking that the Government would provide an Impact Assessment on the final package of measures that the Government wishes to rejoin, should the Government decide to exercise the opt-out. The Impact Assessment will include all relevant information. (1.8)

Conclusion

We can assure you that we are aware of the importance of this matter. The Home Secretary, in her Statement on 15 October 2012, explained that the national interest will be at the heart of any final decision. As part of this, we will consider whether practical cooperation is underpinned by a measure, how a measure contributes to national safety and security and the impact on civil liberties and rights. We must also consider carefully the implications of ECJ jurisdiction and Commission enforcement powers over these measures. This is because, as we highlighted earlier, these measures were mostly drafted without ECJ jurisdiction in mind. Indeed, EU Justice Commissioner Viviane Reding has made clear that the old ‘third pillar’ often led to outcomes at the ‘lowest common

denominator' in order to secure unanimity. However, we have been clear throughout this process that where there is a proper case for cooperation at the EU level, we will support it. (1.9 & 1.10)

As we noted earlier, we regret the delay in providing Parliament with the EMs, but remain committed to ensuring enhanced Parliamentary scrutiny of EU justice and home affairs matters, including the 2014 decision. (1.11)

We are grateful for the work of this Committee, the other Committees and Parliament more generally on this important issue. We are mindful of the timetable for your Report to the House later this spring and are happy to commit to engaging with Parliament constructively during the remainder of the process. Indeed, in our letter of 11 February, we agreed to appear before your Committee to give evidence. (1.12)

Annex B — List of measures

| No. | Year of adoption | Title |
|-----|------------------|--|
| 1 | 1995 | Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests |
| 2 | 1996 | Joint Action 96/277/JHA of 22 April 1996 concerning a framework for the exchange of liaison magistrates to improve judicial cooperation between the Member States of the European Union |
| 3 | 1996 | Joint Action 96/610/JHA concerning the creation and maintenance of a Directory of specialized counter-terrorist competences, skills and expertise to facilitate counter-terrorist cooperation between the Member States of the European Union |
| 4 | 1996 | Joint Action 96/698/JHA on cooperation between customs authorities and business organizations in combating drug trafficking |
| 5 | 1996 | Joint Action 96/699/JHA concerning the exchange of information on the chemical profiling of drugs to facilitate improved cooperation between Member States in combating illicit drug trafficking |
| 6 | 1996 | Joint Action 96/747/JHA concerning the creation and maintenance of a directory of specialized competences, skills and expertise in the fight against international organized crime, in order to facilitate law enforcement cooperation between the Member States of the European Union |
| 7 | 1996 | Joint Action 96/750/JHA concerning the approximation of the laws and practices of the Member States of the European Union to combat drug addiction and to prevent and combat illegal drug trafficking |
| 8 | 1996 | Council Act of 27 September 1996 drawing up a Protocol to the Convention on the protection of the European Communities' financial interests |
| 9 | 1997 | Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union |
| 10 | 1997 | Joint Action 97/339/JHA of 26 May 1997 with regard to cooperation on law and order and security |

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| 11 | 1997 | Joint Action 97/372/JHA of 9 June 1997 for the refining of targeting criteria, selection methods, et. and collection of customs and police information |
| 12 | 1997 | Council Act of 19 June 1997 drawing up the Second Protocol of the Convention on the protection of the European Communities' financial interests |
| 13 | 1997 | Joint Action 97/827/JHA of 5 December 1997 establishing a mechanism for evaluating the application and implementation at national level of international undertakings in the fight against organized crime |
| 14 | 1997 | Council Act of 18 December 1997 drawing up the Convention on mutual assistance and cooperation between customs administrations |
| 15 | 1998 | Council Act of 17 June 1998 drawing up the Convention on Driving Disqualifications |
| 16 | 1998 | Joint Action 98/427/JHA of 29 June 1998 on good practice in mutual legal assistance in criminal matters |
| 17 | 1998 | Joint Action 98/699/JHA of 3 December 1998 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and proceeds from crime |
| 18 | 1998 | Joint Action 98/700/JHA of 3 December 1998 concerning the setting up of a European Image Archiving System (FADO) |
| 19 | 1999 | Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees |
| 20 | 1999 | Council Decision 1999/615/JHA of 13 September 1999 defining 4-MTA as a new synthetic drug which is to be made subject to control measures and criminal penalties |
| 21 | 1999 | Council Decision of 2 December 1999 amending the Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees, with regard to the establishment of remuneration, pensions and other financial entitlements in euro |
| 22 | 2000 | Council Decision 2000/261/JHA of 27 March 2000 on the improved exchange of information to combat counterfeit travel documents |
| 23 | 2000 | Council Decision 2000/375/JHA to combat child pornography on the internet |
| 24 | 2000 | Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro |
| 25 | 2000 | Council Act of 29 May 2000 establishing the Convention on mutual assistance in criminal matters between the Member States of the European Union |
| 26 | 2000 | Council Decision 2000/641/JHA of 17 October 2000 establishing a secretariat for the joint supervisory data-protection bodies set up by the Convention on the establishment of a European Police Office (Europol Convention), the Convention on the Use of Information Technology for Customs Purposes and the Convention implementing the Schengen Agreement on the gradual abolition of checks at the common borders (Schengen Convention) |
| 27 | 2000 | Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements between financial intelligence units of the Member States in respect of exchanging information |

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| 28 | 2001 | Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings¹ |
| 29 | 2001 | Council Framework Decision 2001/413/JHA of 28 May 2001 combating fraud and counterfeiting of non-cash means of payment |
| 30 | 2001 | Council Decision 2001/419/JHA of 28 May 2001 on the transmission of samples of controlled substances |
| 31 | 2001 | Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime (repealing Articles 1, 3, 5(1) and 8(2) of Joint Action 98/699/JHA) |
| 32 | 2001 | Council Act of 16 October 2001 establishing the Protocol to the Convention on mutual assistance in criminal matters between the Member states of the European Union |
| 33 | 2001 | Council Decision 2001/887/JHA of 6 December 2001 on the protection of the euro against counterfeiting |
| 34 | 2001 | Council Framework Decision 2001/888/JHA of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro |
| 35 | 2002 | Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime |
| 36 | 2002 | Council Decision 2002/188/JHA of 28 February 2002 concerning control measures and criminal sanctions in respect of the new synthetic drug PMMA |
| 37 | 2002 | Council Decision 2002/348/JHA of 25 April 2002 concerning security in connection with football matches with an international dimension |
| 38 | 2002 | Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams |
| 39 | 2002 | Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism |
| 40 | 2002 | Council Decision 2002/494/JHA of 13 June 2002 setting up a European network of contact points in respect of persons responsible for genocide, crimes against humanity and war crimes |
| 41 | 2002 | Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States |
| 42 | 2002 | Council Framework Decision 2002/629/JHA on combating trafficking in human beings² |
| 43 | 2002 | Council Framework Decision 2002/946/JHA of 28 November 2002 on the strengthening of the penal framework to prevent the facilitation of unauthorised entry, transit and residence |

1 This measure has been repealed and replaced by Proposal for a Directive of the European Parliament and of the Council establishing minimum standards on the rights, support and protection of victims of crime

2 This measure has been repealed and replaced by Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA.

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| 44 | 2002 | Council Decision 2002/956/JHA of 22 November 2002 setting up a European Network for the Protection of Public Figures |
| 45 | 2002 | Council Decision 2002/996/JHA of 28 November 2002 establishing a mechanism for evaluating the legal systems and their implementation at national level in the fight against terrorism |
| 46 | 2003 | Council Decision 2003/170/JHA of 27 February 2003 on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States |
| 47 | 2003 | Council Framework Decision 2003/568/JHA of 22 July 2003 on combating corruption in the private sector |
| 48 | 2003 | Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence |
| 49 | 2003 | Council Decision 2003/642/JHA of 22 July 2003 concerning the application to Gibraltar of the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union |
| 50 | 2003 | Council Decision 2003/847/JHA of 27 November 2003 concerning control measures and criminal sanctions in respect of the new synthetic drugs 2C-I, 2C-T-2, 2C-T-7 and TMA-2 |
| 51 | 2003 | Council Decision 2003/335/JHA on the investigation and prosecution of genocide, crimes against humanity and war crimes |
| 52 | 2003 | Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography³ |
| 53 | 2004 | Council Decision 2004/731/EC of 26 July 2004 concerning the conclusion of the Agreement between the European Union and Bosnia and Herzegovina on security procedures for the exchange of classified information Agreement between Bosnia and Herzegovina and the European Union on security procedures for the exchange of classified information |
| 54 | 2004 | Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking |
| 55 | 2004 | Council Decision of 2004/843/CFSP 26 July 2004 concerning the conclusion of the Agreement between the European Union and the Kingdom of Norway on security procedures for the exchange of classified information |
| 56 | 2004 | Council Decision 2004/919/EC of 22 December 2004 on tackling vehicle crime with cross-border implications |
| 57 | 2005 | Council Common Position 2005/69/JHA of 24 January 2005 on exchanging certain data with Interpol |
| 58 | 2005 | Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-related Proceeds, Instrumentalities and Property |
| 59 | 2005 | Council Framework Decision 2005/214/JHA of 24 February 2005 on the |

³ This measure has been repealed and replaced by Directive 2011/92/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA.

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| | | application of the principle of mutual recognition to financial penalties |
| 60 | 2005 | Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems |
| 61 | 2005 | Council Decision 2005/296/CFSP, JHA of 24 January 2005 concerning the conclusion of the Agreement between the European Union and the former Yugoslav Republic of Macedonia on the security procedures for the exchange of classified information Agreement between the former Yugoslav Republic of Macedonia and the European Union on the security procedures for the exchange of classified information (Council Decision 2005/296/CFSP/JHA of 24 January 2005) |
| 62 | 2005 | Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances |
| 63 | 2005 | Council Decision 2005/481/CFSP of 13 June 2005 concerning the conclusion of the Agreement between the European Union and Ukraine on the security procedures for the exchange of classified information |
| 64 | 2005 | Council Decision 2005/511/JHA of 12 July 2005 on protecting the euro against counterfeiting, by designating Europol as the Central Office for combating euro-counterfeiting |
| 65 | 2006 | Council Decision 2006/560/JHA of 24 July 2006 amending Decision 2003/170/JHA on the common use of liaison officers posted abroad by the law enforcement agencies of the Member States |
| 66 | 2005 | Council Decision 2005/671/JHA of 20 September 2005 on the exchange of information and cooperation concerning terrorist offences |
| 67 | 2005 | Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA |
| 68 | 2006 | Council Framework Decision 2006/783/JHA of 6 October 2006 on the application of the principle of mutual recognitions to confiscation orders |
| 69 | 2006 | Council Framework Decision 2006/960/JHA of 18 December 2006 on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union |
| 70 | 2006 | Council Decision 2006/317/CFSP of 10 April 2006 concerning the conclusion of the Agreement between the European Union and the Republic of Croatia on security procedures for the exchange of classified information ⁴ |
| 71 | 2006 | Council Decision 2006/467/CFSP of 21 November 2005 concerning the conclusion of the Agreement between the European Union and the Republic of Iceland on security procedures for the exchange of classified information |
| 72 | 2007 | Council Decision 2007/412/JHA of 12 June 2007 amending Decision 2002/348/JHA concerning security in connection with football matches with an international dimension |
| 73 | 2007 | Council Decision 2007/845/JHA of 6 December 2007 concerning cooperation between Asset Recovery Offices of the Member States in the field of tracing and identification of proceeds from, or property related to, crime |

4 Will become defunct when Croatia accedes to the EU on 1 July 2013.

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| 74 | 2007 | Agreement between the European Union and the United States of America on the processing of Passenger Name Records (PNR) data by air carriers to the United States Department of Homeland Security⁵ |
| 75 | 2007 | Council Decision 2007/274/JHA of 23 April 2007 concerning the conclusion of the Agreement between the European Union and the Government of the United States of America on the security of classified information |
| 76 | 2008 | Council Decision 2008/206/JHA of 3 March 2008 defining 1-benzylpiperazine (BZP) as a new psychoactive substance which is to be made subject to control measures and criminal provisions |
| 77 | 2008 | Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime |
| 78 | 2008 | Council Decision 2008/568/CFSP of 24 June 2005 concerning the conclusion of the Agreement between the European Union and the Swiss Confederation on security procedures for the exchange of classified information |
| 79 | 2008 | Council Decision 2008/615/JHA of 23 June 2008 on stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime |
| 80 | 2008 | Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Council Decision 2008/615/JHA on stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime |
| 81 | 2008 | Council Decision 2008/617/JHA of 23 June 2008 on the improvement of cooperation between the special intervention units of the Member States of the European Union in crisis situations |
| 82 | 2008 | Council Decision 2008/651/CFSP/JHA of 30 June 2008 on the signing, on behalf of the European Union, of an Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service⁶ |
| 83 | 2008 | Council Framework Decision 2008/675/JHA of 24 July 2008 on taking account of convictions in the Member States of the European Union in the course of new criminal proceedings |
| 84 | 2008 | Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime |
| 85 | 2008 | Council Framework Decision 2008/909/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments in criminal matters imposing custodial sentences or measures involving deprivation of liberty for the purposes of their enforcement in the European Union |
| 86 | 2008 | Council Framework Decision 2008/913/JHA of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law |
| 87 | 2008 | Council Framework Decision 2008/919/JHA of 28 November 2008 amending |

5 This measure has been repealed and replaced by the new Agreement between the European Union and the United States of America on the use and transfer of Passenger Name Records to the United States Department of Homeland Security which entered into force on 1 July 2012

6 This measure has been repealed and replaced by the new Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service which entered into force on 1 July 2012

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| | | Framework Decision 2002/475/JHA on combating terrorism |
| 88 | 2008 | Council Framework Decision 2008/947/JHA of 27 November 2008 on the application of the principle of mutual recognition to judgments and probation decisions with a view to the supervision of probation measures and alternative sanctions |
| 89 | 2008 | Council Decision 2008/976/JHA of 16 December 2008 on the European Judicial Network |
| 90 | 2008 | Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters |
| 91 | 2008 | Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters |
| 92 | 2009 | Council Framework Decision 2009/299/JHA of 26 February 2009 amending Framework Decisions 2002/584/JHA, 2005/214/JHA, 2006/783/JHA, 2008/909/JHA and 2008/947/JHA, thereby enhancing the procedural rights of persons and fostering the application of the principle of mutual recognition to decisions rendered in the absence of the person concerned at the trial |
| 93 | 2009 | Council Framework Decision 2009/315/JHA of 26 February 2009 on the organisation and content of the exchange of information extracted from the criminal record between Member States |
| 94 | 2009 | Council Decision 2009/316/JHA of 6 April 2009 on the establishment of the European Criminal Records Information System (ECRIS) in application of Article 11 of Framework Decision 2009/315/JHA |
| 95 | 2009 | Council Decision 2009/371/JHA establishing the European Police Office (Europol) |
| 96 | 2009 | Council Decision 2009/796/JHA of 4 June 2009 amending Decision 2002/956/JHA setting up a European Network for the Protection of Public Figures |
| 97 | 2009 | Council Framework Decision 2009/829/JHA of 23 October 2009 on the application, between Member States of the European Union, of the principle of mutual recognition to decisions of supervision measures as an alternative to provisional detention |
| 98 | 2009 | Council Decision 2009/902/JHA of 30 November 2009 setting up a European Crime Prevention Network (EUCPN) and repealing Decision 2001/427/JHA |
| 99 | 2009 | Council Framework Decision 2009/905/JHA of 30 November 2009 on accreditation of forensic service providers carrying out laboratory activities |
| 100 | 2009 | Council Decision 2009/917/JHA of 30 November 2009 on the use of information technology for customs purposes |
| 101 | 2009 | Agreement on mutual legal assistance between the European Union and the United States of America: <ul style="list-style-type: none"> • Council Decision 2003/516/EC of 6 June 2003 concerning the signature of the Agreements between the European Union and the United States of America on extradition and mutual legal assistance in criminal matters • Council Decision 2009/820/CFSP of 23 October 2009 on the conclusion on behalf of the European Union of the Agreement on extradition between the European Union and the United States of America and |

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| | | the Agreement on mutual legal assistance between the European Union and the United States of America |
| 102 | 2009 | <p>Agreement on extradition between the European Union and the United States of America:</p> <ul style="list-style-type: none"> • Council Decision 2003/516/EC of 6 June 2003 concerning the signature of the Agreements between the European Union and the United States of America on extradition and mutual legal assistance in criminal matters • Council Decision 2009/820/CFSP of 23 October 2009 on the conclusion on behalf of the European Union of the Agreement on extradition between the European Union and the United States of America and the Agreement on mutual legal assistance between the European Union and the United States of America |
| 103 | 2009 | Council Decision 2009/933/CFSP of 30 November 2009 on the extension, on behalf of the European Union, of the territorial scope of the Agreement on extradition between the European Union and the United States of America |
| 104 | 2009 | Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information |
| 105 | 2009 | Council Decision 2009/935/JHA of 30 November 2009 determining the list of third countries with which Europol shall conclude agreements |
| 106 | 2009 | Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files |
| 107 | 2009 | Council Framework Decision 2009/948/JHA of 30 November 2009 on prevention and settlement of conflicts of exercise of jurisdiction in criminal matters |
| 108 | 2009 | Council Decision 2009/968/JHA of 30 November 2009 adopting the rules on the confidentiality of Europol information |
| 109 | 2009 | Council Decision 2010/348/EC of 17 November 2009 concerning the conclusion of the Agreement between the Government of the Russian Federation and the European Union on the protection of classified information |
| 134 | 2003 | Council Decision 2003/169/JHA determining which provisions of the 1995 Convention on simplified extradition procedure between the Member States of the European Union and of the 1996 Convention relating to extradition between the Member States of the European Union constitute developments of the Schengen <i>acquis</i> in accordance with the Agreement concerning the Republic of Iceland's and the Kingdom of Norway's association with the implementation, application and development of the Schengen <i>acquis</i> ⁷ |
| 135 | 2008 | Council Decision 2008/852/JHA on a contact-point network against corruption ⁸ |
| 136 | 2003 | Council Decision 2003/659/JHA amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime ⁹ |

7 Added in October 2012 following consultation with EU Institutions.

8 Added in October 2012 following consultation with EU Institutions.

9 Added in May 2013 following consultation with EU Institutions.

'Schengen' measures

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| 110 | 1985 | <p><u>Convention implementing the Schengen Agreement of 1985</u></p> <p>Article 39 to the extent that that this provision has not been replaced by Council Framework Decision 2006/960/JHA.</p> <p>Article 40</p> <p>Article 42 and 43 (to the extent that they relate to article 40)</p> <p>Article 44</p> <p>Article 46</p> <p>Article 47 (except (2)(c) and (4))</p> <p>Article 48</p> <p>Article 49(b)–(f)</p> <p>Article 51</p> <p>Article 54</p> <p>Article 55</p> <p>Article 56</p> <p>Article 57</p> <p>Article 58</p> <p>Article 71</p> <p>Article 72</p> <p>Article 126</p> <p>Article 127</p> <p>Article 128</p> <p>Article 129</p> <p>Article 130</p> <p>Final Act — Declaration No. 3 (concerning article 71(2))</p> |
| 111 | | <p><u>Accession Protocols:</u> (amended in conformity with article 1 (b) of CD 2000/365/EC and CD 2004/926/EC article 1)</p> <p>Italy: Articles 2, , 4 + common declaration on articles 2 and 3 to the extent it relates to article 2,</p> <p>Spain: Articles 2, 4 and Final Act, Part III, declaration 2</p> <p>Portugal: Articles 2, , 4, 5 and 6</p> <p>Greece: Articles 2, 3, 4, 5 and Final Act, Part III, declaration 2</p> <p>Denmark: Articles 2, , 4 and 6 and Final Act Part III joint declaration 3</p> <p>Finland: Articles 2, , 4 and 5 and Final Act, Part II joint declaration 3</p> <p>Sweden: Articles 2, , 4 and 5 + Final Act, Part II Joint declaration 3</p> |
| 112 | 1993 | SCH/Com-ex (93) 14 on improving practical judicial cooperation for combating drug trafficking |
| 113 | 1996 | SCH/Com-ex (96) decl 6 rev 2 (declaration on extradition) |
| 114 | 1998 | SCH/Com-ex (98) 26 def setting up a Standing Committee on the evaluation and implementation of Schengen |
| 115 | 1998 | SCH/Com-ex (98)52 on the Handbook on cross-border police cooperation |
| 116 | 1999 | SCH/Com-ex (99)6 on the Schengen <i>acquis</i> relating to telecommunications |
| 117 | 1999 | SCH/Com-ex (99)7 rev 2 on liaison officers |
| 118 | 1999 | SCH/Com-ex (99)8 rev 2 on general principles governing the payment of informers |
| 119 | 1999 | SCH/Com-ex (99) 11 rev 2 (agreement on cooperation in proceedings for road traffic offences) |
| 120 | 2000 | Council Decision 2000/586/JHA of 28 September 2000 establishing a procedure for amending Articles 40(4) and (5), 41(7) and 65((2) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders. |

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| 121 | 2003 | Council Decision 2003/725/JHA of 2 October 2003 amending the provisions of Article 40(1) and (7) of the Convention implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders |
| 122 | 2004 | Council Decision 2004/849/EC of 25 October 2004 on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union, the European Community and the Swiss Confederation concerning the Swiss Confederation's association with the implementation, application and development of the Schengen <i>Acquis</i> |
| 123 | 2005 | Council Decision 2005/211/JHA of 24 February 2005 concerning the introduction of some new functions for the Schengen Information System, including in the fight against terrorism |
| 124 | 2006 | Council Decision 2006/228/JHA of 9 March 2006 fixing the date of application of certain provisions of Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism |
| 125 | 2006 | Council Decision 2006/229/JHA of 9 March 2006 fixing the date of application of certain provisions of Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism |
| 126 | 2006 | Council Decision 2006/631/JHA of 9 March 2006 fixing the date of application of certain provisions of Decision 2005/211/JHA concerning the introduction of some new functions for the Schengen Information System, including the fight against terrorism |
| 127 | 2007 | Commission Decision 2007/171/EC of 16 March 2007 laying down the network requirements for the Schengen Information System II (third pillar) |
| 128 | 2007 | Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) |
| 129 | 2008 | Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II) |
| 130 | 2008 | Commission Decision 2008/334/JHA of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) ¹⁰ |
| 131 | 2008 | Council Decision 2008/328/EC of 18 April 2008 amending the Decision of the Executive Committee set up by the 1990 Schengen Convention, amending the Financial Regulation on the costs of installing and operating the technical support function for the Schengen Information System (C.SIS) |
| 132 | 2008 | Council Decision 2008/149/EC of 28 January 2008 on the conclusion, on behalf of the European Union, of the Agreement between the European Union, the European Community and the Swiss Confederation on the Swiss Confederation's association with the implementation, application and development of the Schengen <i>acquis</i> |
| 133 | 2009 | Commission Decision 2009/724/JHA of 17 September 2009 laying down the date for the completion of migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II) |

¹⁰ Repealed and replaced by Commission Implementing Decision of 26 February 2013 on the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II)

Measures that the UK has chosen to participate in subsequent to 1 December 2009 and which will repeal and replace, or amend, measures on the above lists:

- Initiative of the Kingdom of Belgium, the Republic of Bulgaria, the Republic of Estonia, the Kingdom of Spain, the Republic of Austria, the Republic of Slovenia and the Kingdom of Sweden for a Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters
- Proposal for a Directive of the European Parliament and of the Council on attacks against information systems, repealing Council Framework Decision 2005/222/JHA
- Proposal for a Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data
- Proposal for a Council Regulation on the establishment of an evaluation mechanism to verify the application of the Schengen *acquis*.