



The primary purpose of the House of Lords European Union Select Committee is to scrutinise EU law in draft before the Government take a position on it in the EU Council of Ministers. This scrutiny is frequently carried out through correspondence with Ministers. Such correspondence, including Ministerial replies and other materials, is published where appropriate.

This edition includes correspondence from 1 April – 30 June 2019

## EU HOME AFFAIRS SUB-COMMITTEE

### CONTENTS

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres (12104/18) .....4

Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the European Border and Coast Guard and repealing Council Joint Action n°98/700/JHA, Regulation (EU) n° 1052/2013 of the European Parliament and of the Council and Regulation (EU) n° 2016/1624 of the European Parliament and of the Council A contribution from the European Commission to the Leaders’ meeting in Salzburg on 19-20 September 2018 (12143/18).....5

Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of a Protocol between the European Union, the Republic of Iceland and the Kingdom of Norway to the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway regarding the access to Eurodac for law enforcement purposes (15658/18).....7

Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of a Protocol between the European Union, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland regarding the access to Eurodac for law enforcement purposes (15638/18) .....7

Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, of a Protocol to the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of

fingerprints for the effective application of the Dublin Convention extending that agreement to law enforcement (15680/18) .....	7
Proposal for a COUNCIL DECISION on the conclusion of a Protocol between the European Union, the Republic of Iceland and the Kingdom of Norway to the Agreement between the European Community and the Republic of Iceland and the Kingdom of Norway concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Iceland or Norway regarding the access to Eurodac for law enforcement purposes (15653/18) .....	7
Proposal for a COUNCIL DECISION on the conclusion of a Protocol between the European Union, the Swiss Confederation and the Principality of Liechtenstein to the Agreement between the European Community and the Swiss Confederation concerning the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in a Member State or in Switzerland regarding the access to Eurodac for law enforcement purposes (15626/18) .....	7
Proposal for a COUNCIL DECISION on the conclusion of a Protocol to the Agreement between the European Community and the Kingdom of Denmark on the criteria and mechanisms for establishing the State responsible for examining a request for asylum lodged in Denmark or any other Member State of the European Union and 'Eurodac' for the comparison of fingerprints for the effective application of the Dublin Convention extending that agreement to law enforcement (15676/18).....	7
Proposal for a Regulation of the European Parliament and of the Council establishing the conditions for accessing the other EU information systems and amending Regulation (EU) 2018/1862 and Regulation (EU) yyyy/xxx [ECRIS-TCN] (5071/19) ...	8
Recommendation for a COUNCIL DECISION authorising the participation in negotiations on a second Additional Protocol to the Council of Europe Convention on Cybercrime (CETS No. 185) (6110/19) .....	9
Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union and the Swiss Confederation on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of crossborder cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities (6251/19) .....	10
Proposal for a COUNCIL DECISION on the signing, on behalf of the European Union, and on the provisional application of certain provisions of the Agreement between the European Union and the Principality of Liechtenstein on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto, and of Council Framework Decision	

2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities (6253/19) .....	10
Proposal for a COUNCIL DECISION on the conclusion of the Agreement between the European Union and the Principality of Liechtenstein on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of crossborder cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities (6248/19) .....	11
Proposal for a COUNCIL DECISION on the conclusion of the Agreement between the European Union and the Swiss Confederation on the application of certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, of Council Decision 2008/616/JHA on the implementation of Decision 2008/615/JHA on the stepping up of crossborder cooperation, particularly in combating terrorism and cross-border crime, and the Annex thereto, and of Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities (6249/19) .....	11
COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS on enabling the digital transformation of health and care in the Digital Single Market; empowering citizens and building a healthier society (6451/18).....	12
Regulation of the European Parliament and of the Council on the false and authentic documents online ('FADO') system and repealing the Joint Action 98/700/JHA - Mandate for negotiations with the European Parliament (6676/19) .....	13

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ESTABLISHING THE EUROPEAN CYBERSECURITY INDUSTRIAL, TECHNOLOGY AND RESEARCH COMPETENCE CENTRE AND THE NETWORK OF NATIONAL COORDINATION CENTRES (12104/18)

**Letter from the Chairman to Margot James MP, Minister for Digital and the Creative Industries, Department for Digital, Culture, Media & Sport**

Thank you for your letter dated 25 March on the above file, which the House of Lords EU Home Affairs Sub-Committee considered at its meeting on 3 April 2019.

I am grateful for your comprehensive update on progress in negotiations, including confirmation that a mandate was agreed for trilogues to begin with the European Parliament. I look forward to further updates on these discussions and ask that these updates highlight in particular:

- any significant areas of divergence between the Council and the European Parliament positions;
- any developments relating to the participation of third countries in the work of the Centre.

I look forward to your response in due course.

*4 April 2019*

**Letter from Margot James MP, Minister for Digital and the Creative Industries**

Thank you very much for your response dated 4th April on the Proposal for a Regulation of the European Parliament and of the Council establishing the European Cybersecurity Industrial, Technology and Research Competence Centre and the Network of National Coordination Centres, document number 12104/18. I am grateful for the Committee's continued consideration of this file.

In my last letter, I explained that COREPER granted the Romanian Presidency a partial mandate on 13th March to begin trilogue negotiations with the European Parliament. Two trilogues were then held on 13th and 20th March. Whilst there was initial progress and agreement on the objectives and tasks of the Centre and Network, as wider discussions on Horizon Europe and Digital Europe negotiations came to light a number of Member States were not happy about the Commission's insistence on a mandatory co-financing approach to funding the Centre.

Subsequently, a third trilogue planned for 28th March did not occur due to Member State concerns over financial aspects, voting rights and the rush to conclude discussions; as well as differences between the Council and Parliament positions. Member States did not grant the Presidency a mandate for further trilogues, meaning that they will now wait until the new legislature. In the meantime, discussions will continue at technical level in the Horizontal Working Party on Cyber Issues to clarify the Council position towards a general approach, with a particular aim to finalise agreement on funding and governance issues.

In your response, you requested an update on areas of divergence between the Council and European Parliament positions. As previously mentioned, a number of Member States (including France, Germany, and Sweden) have been critical of the complexity of the proposals, in particular how the funding mechanisms link with EU funding programmes under the next Multiannual Financial Framework (MFF). This has also revealed a significant general divergence between the Council and European Parliament positions, since the Parliament appears to be more supportive of the Commission's goal to create a new cyber security Centre (including the co-financing that this requires). There is therefore some distance between the co-legislators' subsequent ambition for the proposal, with the European Parliament putting forward amendments to widen the scope with references to cyber standards, cyber defence, involvement of SMEs and coordinated vulnerability disclosure. The UK has remained neutral on this issue of funding, since the proposal is due to be funded under the next MFF from 2021.

Your letter also asked whether there are any developments relating to the participation of third countries in the work of the Centre. We continue to explore with the European Commission and like-minded Member States how third countries can best participate in the work of the Centre. In line with our position to ensure a role for UK industry, we have received assurances that an entity

registered within the Union would be considered to be established for the purposes of participating in the proposal as we have received the legal clarification that under ECJ case law, a company that is registered in the EU is considered established. This means that industry and academia from third countries but with a registered presence in the Union will be able to apply to be a part of the Cybersecurity Competence Community.

We have also taken every opportunity to regularly engage with EU Member States to share best practice demonstrated through UK's existing cyber security infrastructure, such as the National Cyber Security Centre (NCSC), the UK Cyber Security Innovation Centres, Digital Innovation Hubs, and centres of excellence in cyber security research and skills programmes. We will continue to update you as discussions in Council progress; and let you know should trilogue negotiations with the European Parliament reopen.

*26 April 2019*

**Letter from the Chairman to Margot James MP, Minister for Digital and the Creative Industries**

Thank you for your letter dated 26 April on the above file, which the House of Lords EU Home Affairs Sub-Committee considered at its meeting on 15 May 2019. We decided to retain this document under scrutiny.

I note that trilogue negotiations on this file are now on hold until the new European Parliament, and welcome your commitment to keep us informed about the progress of negotiations on a general approach in Council.

I look forward to a further update in due course. I would be grateful if, in this letter, you could also provide a more detailed explanation of "a registered presence in the Union", and how UK industry and academia would fulfil this criterion. What level of business activity would need to take place in the EU for a company to be considered 'established'?

*16 May 2019*

**PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE EUROPEAN BORDER AND COAST GUARD AND REPEALING COUNCIL JOINT ACTION N°98/700/JHA, REGULATION (EU) N° 1052/2013 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL AND REGULATION (EU) N° 2016/1624 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL A CONTRIBUTION FROM THE EUROPEAN COMMISSION TO THE LEADERS' MEETING IN SALZBURG ON 19-20 SEPTEMBER 2018 (12143/18)**

**Letter from the Rt Hon Caroline Nokes MP, Minister of State for Immigration, Home Office**

Many of the aspects of the proposal that Member States found most contentious revolved around the maximum standing corps of personnel (the cohort of statutory staff augmented by Member State personnel on short and long term secondments) and its size, structure and remit. Following the introduction of compromise text intended to strengthen the review process of progress towards the 10,000 figure, Coreper gave the Romanian Presidency a mandate to commence negotiations with the European Parliament.

However, the European Parliament made a number of asks during trilogues. Member States reluctantly agreed to a less robust review process and also conceded on the Agency being able to assist with third country to third country returns (though neighbouring states can request technical assistance with returns). They also agreed to a fourth category of standing corps personnel which would be deployed only for rapid reaction interventions and only when staff in the first three categories have already been deployed. The requirement for this fourth category falls away in 2024. The Presidency held firm on giving the European Parliament a voting role on the Agency's Management Board as well as a say on senior Agency appointments.

On Tuesday 2 April, the European Parliament's LIBE Committee agreed the deal and the text now needs to be formally approved by the Parliament as a whole and the Council of the EU before entering into force.

You also asked for any clarity on future UK access to the FADO database. As you are aware, a separate FADO proposal has since been published and I will write to you separately on this.

*9 May 2019*

**Letter from the Chairman to the Rt Hon Caroline Nokes MP, Minister of State for Immigration, Home Office**

Thank you for letter of 9 May 2019 on the above file, which the House of Lords EU Home Affairs Sub-Committee considered at its meeting on 22 May 2019.

We are content to clear this file from scrutiny and do not require a response.

*22 May 2019*

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF A PROTOCOL BETWEEN THE EUROPEAN UNION, THE REPUBLIC OF ICELAND AND THE KINGDOM OF NORWAY TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF ICELAND AND THE KINGDOM OF NORWAY CONCERNING THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN A MEMBER STATE OR IN ICELAND OR NORWAY REGARDING THE ACCESS TO EURODAC FOR LAW ENFORCEMENT PURPOSES (15658/18)

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF A PROTOCOL BETWEEN THE EUROPEAN UNION, THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION CONCERNING THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN A MEMBER STATE OR IN SWITZERLAND REGARDING THE ACCESS TO EURODAC FOR LAW ENFORCEMENT PURPOSES (15638/18)

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, OF A PROTOCOL TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE KINGDOM OF DENMARK ON THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN DENMARK OR ANY OTHER MEMBER STATE OF THE EUROPEAN UNION AND 'EURODAC' FOR THE COMPARISON OF FINGERPRINTS FOR THE EFFECTIVE APPLICATION OF THE DUBLIN CONVENTION EXTENDING THAT AGREEMENT TO LAW ENFORCEMENT (15680/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF A PROTOCOL BETWEEN THE EUROPEAN UNION, THE REPUBLIC OF ICELAND AND THE KINGDOM OF NORWAY TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE REPUBLIC OF ICELAND AND THE KINGDOM OF NORWAY CONCERNING THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN A MEMBER STATE OR IN ICELAND OR NORWAY REGARDING THE ACCESS TO EURODAC FOR LAW ENFORCEMENT PURPOSES (15653/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF A PROTOCOL BETWEEN THE EUROPEAN UNION, THE SWISS CONFEDERATION AND THE PRINCIPALITY OF LIECHTENSTEIN TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE SWISS CONFEDERATION CONCERNING THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN A MEMBER STATE OR IN SWITZERLAND REGARDING THE ACCESS TO EURODAC FOR LAW ENFORCEMENT PURPOSES (15626/18)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF A PROTOCOL TO THE AGREEMENT BETWEEN THE EUROPEAN COMMUNITY AND THE KINGDOM OF DENMARK ON THE CRITERIA AND MECHANISMS FOR ESTABLISHING THE STATE RESPONSIBLE FOR EXAMINING A REQUEST FOR ASYLUM LODGED IN DENMARK OR ANY OTHER MEMBER STATE OF THE EUROPEAN UNION AND 'EURODAC' FOR THE COMPARISON OF FINGERPRINTS FOR THE EFFECTIVE

APPLICATION OF THE DUBLIN CONVENTION EXTENDING THAT AGREEMENT TO  
LAW ENFORCEMENT (15676/18)

**Letter from the Chairman to the Rt Hon Nick Hurd MP, Minister of State for Policing  
and the Fire Service, Home Office**

Thank you for your letter of 27 March 2019 on the above files, which the House of Lords EU Home Affairs Sub-Committee considered at its meeting on 3 April 2019.

We are content to clear these files from scrutiny, and do not require a response.

4 April 2019

PROPOSAL FOR A REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE  
COUNCIL ESTABLISHING THE CONDITIONS FOR ACCESSING THE OTHER EU  
INFORMATION SYSTEMS AND AMENDING REGULATION (EU) 2018/1862 AND  
REGULATION (EU) YYYY/XXX [ECRIS-TCN] (5071/19)

**Letter from the Chairman to the Rt Hon Caroline Nokes, Minister of State for  
Immigration, Home Office**

Thank you for your letter dated 25 March 2019 on the above proposal, which the EU Home Affairs Sub-Committee considered at its meeting on 3 April.

I am grateful for your initial assessment of the advantages and disadvantages of UK participation in this Regulation, and your confirmation of the deadline for the UK to make its Schengen opt-out and JHA opt-in decisions.

We have decided to retain the file under scrutiny until you can confirm the Government's position in this regard.

I look forward to your response within 10 working days.

4 April 2019

**Letter from the Rt Hon Caroline Nokes, Minister of State for Immigration**

I write further to the Committee's letter of 4 April 2019. Your letter asks for the Government's position on Regulation 5071/19, according to which the European Travel Information and Authorisation System (ETIAS) will be able to access the European Criminal Records Information System for Third Country Nationals (ECRIS-TCN) and the Second Schengen Information System (SIS II) databases.

ETIAS forms part of the Schengen border legislation that the UK cannot participate in. Nevertheless, the UK fully supports the EU's efforts to strengthen its external borders of which this forms part. ETIAS' access to UK's data on ECRIS-TCN and SIS II will allow the EU to refuse an application for admission to the Schengen area or revoke a grant of admission to a third country national if a relevant alert has been identified and the information indicates that the applicant was previously convicted of terrorism or a serious criminal offence in UK. The European Commission has been working towards 2021 as the date on which ETIAS would become operational, but the date might be extended to 2023.

I would like to inform you that on 9 April 2019 Regulation 5071/19 was split in its two components (access of ETIAS to SIS II and access of ETIAS to ECRIS-TCN) but the Council Legal Service has indicated that this will not affect our deadline on the Schengen opt-out (SIS II) and JHA opt-in (ECRIS-TCN) decision, which is 12 April. We intend to update the House formally by a Written Ministerial Statement on 24 April, after the Parliamentary recess. In the meantime, I will arrange a copy of this letter to be placed in the Library of the House.

The Government has carefully considered the advantages and disadvantages of participating in the proposed Regulation- both the original Regulation and the newer, separate elements (given the substance of these is unchanged) and has decided that the

UK should participate in the measure, which means opting in to the aspect of the proposal that establishes the conditions for the access of ETIAS to ECRIS-TCN (Justice and Home Affairs opt-in) and not opting out of the aspect that establishes the conditions for the access of ETIAS to the Second Schengen Information System (SIS II) (Schengen opt-out). In summary:

- Whilst, there are advantages to the EU from ETIAS having access to UK's data, there are no obvious operational or public protection benefits for the UK given it involves the provision of data to a scheme that the UK does not participate in. However, a significant argument in favour of participating is to prevent our nonparticipation from giving rise to issues around UK's access to SIS II and potentially ECRIS-TCN. If the UK exercises its opt-out in respect of the SIS II element of the proposal (i.e. does not participate) we would not be allowing the ETIAS Central Unit (managed by the European Border and Coast Guard Agency, EBCGA) access to UK SIS II data, when EBCGA already accesses SIS II as a result of the 2018 SIS II Regulation (which the UK is participating in). The Commission could argue that this makes the operation of the EBCG provisions in SIS II either impossible or significantly compromised. In this case, UK could be at risk of ejection from SIS II, an outcome that would have detrimental consequences for UK law enforcement agencies and negatively impact our future security relationship with EU.
- In our initial examination of the implications of the access of ETIAS to UK data on ECRIS-TCN we have concluded that the potential financial and resource implications for ACRO Criminal Records Office (ACRO) - the UK agency that operates the ECRIS-TCN database - will be low, given that the technical requirements ETIAS introduces to ECRIS-TCN have already been considered under the ECRIS-TCN Regulation and will need to be implemented before that Regulation goes into force.
- The decision to participate in the proposed Regulation will also send a strong message that UK is supportive of EU's border security initiatives and underlines the UK's efforts to collaborate with EU on a security partnership once UK leaves the EU, including on SIS II and ECRIS-TCN in any implementation period.

I trust this provides the Committee with further information so that it may consider its scrutiny position.

*11 April 2019*

**Letter from the Chairman to the Rt Hon Caroline Nokes, Minister of State for Immigration**

Thank you for your letter dated 11 April 2019 on the above proposal, which the EU Home Affairs Sub-Committee considered at its meeting on 8 May 2019.

We are content to clear this file from scrutiny and do not require a response.

*8 May 2019*

**RECOMMENDATION FOR A COUNCIL DECISION AUTHORISING THE PARTICIPATION IN NEGOTIATIONS ON A SECOND ADDITIONAL PROTOCOL TO THE COUNCIL OF EUROPE CONVENTION ON CYBERCRIME (CETS NO. 185) (6110/19)**

**Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister for Security and Economic Crime, Home Office**

Thank you for your letter dated 25 March 2019 on the above Recommendation, which the EU Home Affairs Sub-Committee considered at its meeting on 3 April.

I am grateful for your helpful responses to the Committee's initial questions, including confirmation of the addition of a substantive JHA legal base. Your letter confirms that the UK will need to communicate whether it will opt-in by 29 March but does not confirm your decision in this regard. I assume following recent events that this deadline is now 12 April.

We have decided to retain this file under scrutiny until you are able to confirm the UK's opt-in position.

I look forward to your response within 10 working days.

*4 April 2019*

**Letter from the Rt Hon Ben Wallace MP, Minister for Security and Economic Crime**

Thank you for your letter dated 4 April 2019 on the above Council Decision. Following verbal notification by my Department to the clerk of the Lord's European Union Committee on 12 April 2019, I would like to confirm formally in writing the Government's decision not to opt in to the EU Council Decision to participate in the negotiations on the Second Additional Protocol to the Council of Europe Cybercrime "Budapest" Convention.

Not opting in to the EU Council Decision will ensure that the UK is able to negotiate its own position and interests, without being limited or bound by the EU negotiation policy. This includes enabling the UK to ensure that a flexible approach is taken in negotiating the Second Additional Protocol to accommodate the different systems and processes of a wide range of participant states (beyond the participating EU Member States). The Council Decision refers to ensuring that the agreed provisions of the Second Additional Protocol are compatible with EU law and future developments in EU law. Officials in my Department are concerned this may limit its global appeal and potential effectiveness. Furthermore, it could be difficult for the UK to support a position that looks to future developments in a body of law in which we will not be participating.

As per the requirement, my Department will update the House by Written Ministerial Statement

Given the information provided above, I would be grateful if you could confirm that you are now able to lift your scrutiny reserve on this file - 6110/19

*1 May 2019*

**Letter from the Chairman to the Rt Hon Ben Wallace MP, Minister for Security and Economic Crime**

Thank you for your letter dated 1 May 2019 on the above Recommendation, which the EU Home Affairs Sub-Committee considered at its meeting on 15 May 2018.

We are content to clear this file from scrutiny and do not require a response.

*16 May 2019*

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, AND ON THE PROVISIONAL APPLICATION OF CERTAIN PROVISIONS OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE SWISS CONFEDERATION ON THE APPLICATION OF CERTAIN PROVISIONS OF COUNCIL DECISION 2008/615/JHA ON THE STEPPING UP OF CROSS-BORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, OF COUNCIL DECISION 2008/616/JHA ON THE IMPLEMENTATION OF DECISION 2008/615/JHA ON THE STEPPING UP OF CROSSBORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, AND THE ANNEX THERETO, AND OF COUNCIL FRAMEWORK DECISION 2009/905/JHA ON ACCREDITATION OF FORENSIC SERVICE PROVIDERS CARRYING OUT LABORATORY ACTIVITIES (6251/19)

PROPOSAL FOR A COUNCIL DECISION ON THE SIGNING, ON BEHALF OF THE EUROPEAN UNION, AND ON THE PROVISIONAL APPLICATION OF CERTAIN PROVISIONS OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE PRINCIPALITY OF LIECHTENSTEIN ON THE APPLICATION OF CERTAIN PROVISIONS

OF COUNCIL DECISION 2008/615/JHA ON THE STEPPING UP OF CROSS-BORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, OF COUNCIL DECISION 2008/616/JHA ON THE IMPLEMENTATION OF DECISION 2008/615/JHA ON THE STEPPING UP OF CROSS-BORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, AND THE ANNEX THERETO, AND OF COUNCIL FRAMEWORK DECISION 2009/905/JHA ON ACCREDITATION OF FORENSIC SERVICE PROVIDERS CARRYING OUT LABORATORY ACTIVITIES (6253/19)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE PRINCIPALITY OF LIECHTENSTEIN ON THE APPLICATION OF CERTAIN PROVISIONS OF COUNCIL DECISION 2008/615/JHA ON THE STEPPING UP OF CROSS-BORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, OF COUNCIL DECISION 2008/616/JHA ON THE IMPLEMENTATION OF DECISION 2008/615/JHA ON THE STEPPING UP OF CROSSBORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, AND THE ANNEX THERETO, AND OF COUNCIL FRAMEWORK DECISION 2009/905/JHA ON ACCREDITATION OF FORENSIC SERVICE PROVIDERS CARRYING OUT LABORATORY ACTIVITIES (6248/19)

PROPOSAL FOR A COUNCIL DECISION ON THE CONCLUSION OF THE AGREEMENT BETWEEN THE EUROPEAN UNION AND THE SWISS CONFEDERATION ON THE APPLICATION OF CERTAIN PROVISIONS OF COUNCIL DECISION 2008/615/JHA ON THE STEPPING UP OF CROSS-BORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, OF COUNCIL DECISION 2008/616/JHA ON THE IMPLEMENTATION OF DECISION 2008/615/JHA ON THE STEPPING UP OF CROSSBORDER COOPERATION, PARTICULARLY IN COMBATING TERRORISM AND CROSS-BORDER CRIME, AND THE ANNEX THERETO, AND OF COUNCIL FRAMEWORK DECISION 2009/905/JHA ON ACCREDITATION OF FORENSIC SERVICE PROVIDERS CARRYING OUT LABORATORY ACTIVITIES (6249/19)

**Letter from the Rt Hon Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office**

I am writing to you in response of your letter dated 27 March 2019 requesting the Government's JHA Opt in decision and whether we intend to support the proposals.

I can confirm the Government has decided to opt in to these Council Decisions.

It is the Government's position that data sharing regimes between countries with appropriate safeguards enhance the safety and wellbeing of citizens and visitors to those countries. The UK is therefore supportive of extending the law enforcement access to Prüm to the Swiss Confederation and the Principality of Liechtenstein, both non-EU countries. These states are close partners and enabling further data sharing with them will enhance both their security and ours.

I hope this provides sufficient information for the Committee to consider its scrutiny position.

*10 April 2019*

**Letter from the Chairman to the Rt Hon Nick Hurd MP, Minister of State for Policing and the Fire Service, Home Office**

Thank you for your letter of 10 April 2019 on the above files, which the EU Home Affairs Sub-Committee considered at its meeting on 8 May 2019.

We are content to clear these files from scrutiny and do not require a response.

8 May 2019

COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE COUNCIL, THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE AND THE COMMITTEE OF THE REGIONS ON ENABLING THE DIGITAL TRANSFORMATION OF HEALTH AND CARE IN THE DIGITAL SINGLE MARKET; EMPOWERING CITIZENS AND BUILDING A HEALTHIER SOCIETY (6451/18)

**Letter from the Baroness Blackwood, Parliamentary Under Secretary of State,  
Department of Health**

Thank you for your letter to Lord O'Shaughnessy of 13 June 2018, I am very sorry for the long delay in responding to your letter. I am pleased to hear that you welcomed the detailed information received at that time and I hope to provide you with more clarity on the questions you have raised.

Regarding your first question, the Government remains committed to leaving the EU with a deal. Subject to the Withdrawal Agreement being ratified by Parliament, there will be an implementation period lasting until the end of December 2020, during which the current structure of EU rules and regulations will apply.

After the implementation period ends, those who fall within scope of the Withdrawal Agreement for social security coordination purposes will be entitled to reciprocal healthcare cover on the terms laid out under that deal. Individuals in scope of the social security coordination section of the Withdrawal Agreement are protected for reciprocal healthcare cover (S1, EHIC and S2 rights) once they start exporting their state pension. This includes state pensioners already benefiting from that cover. The exact model for protecting and exchanging data is subject to negotiations. However, the UK is proposing a new model that:

- Maintains the free unhindered flow of personal data between the UK and the EU;
- Reassures EU and UK citizens that their data is subject to robust protection;
- Does not impose unnecessary additional costs to EU and UK businesses; and
- Provides for ongoing regulatory cooperation.

On your question regarding data protection, I can assure you that the free flow of personal data is critical in any trading relationship, and for security reasons. Therefore, achieving a deal on data protection is one of the foundations that must underpin our future relationship with the EU. We are seeking to build on the standard adequacy model and want to see ongoing regulatory cooperation and joined up enforcement action between UK and EU data protection authorities. We are ready to begin preliminary discussions on an adequacy assessment now. It is in the best interests of the EU and the UK that we move quickly to provide the earliest possible reassurance that data flows can continue.

We are strongly committed to protecting the personal data of citizens and we will continue to be a global leader. This is demonstrated by the passage of our new Data Protection Act 2018, which implements the EU's new data protection framework - including the GDPR, into UK law.

I can advise the Committee that the Network and Information Systems (NIS) Directive forms an important part of the UK Governments National Cyber Security Strategy to protect the nation from cyber-threats. The NIS Directive was transposed into UK domestic legislation in May 2018 via the NIS Regulations. When the UK leaves the EU, some amendments will be made to the NIS Regulations. If the UK leaves the EU without a deal, the regulations will be amended to remove provisions which will become redundant or inappropriate, for instance the removal of obligations on the regulatory authorities and the National Cyber Security Centre (NCSC) to share information with the European Commission and authorities in other Member States.

The Government has also recently consulted on introducing a requirement in the NIS Regulations for non-UK based digital service providers, whose size and activities would render them in scope of the

NIS Regulations, to designate a representative in the UK and comply with the NIS Regulations after the UK leaves the EU.

This consultation ran from 16th April until 11th June and the outcome will be available shortly at: <https://www.gov.uk/government/consultations/digital-service-providers-eu-exit-consultation>

It is important for the Committee to note that there are no substantive issues for the UK in the Commission's communication and that we are in the process of discussions to secure the best interests of the UK after Exit. In light of this, I would like to ask the Committee to consider lifting scrutiny on this file.

*27 June 2019*

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE FALSE AND AUTHENTIC DOCUMENTS ONLINE ('FADO') SYSTEM AND REPEALING THE JOINT ACTION 98/700/JHA - MANDATE FOR NEGOTIATIONS WITH THE EUROPEAN PARLIAMENT (6676/19)**

**Letter from the Chairman to the Rt Hon Caroline Nokes, Minister of State for Immigration, Home Office**

Thank you for your EM dated 20 March 2019 on the above proposal, which the EU Home Affairs Sub-Committee considered at its meeting on 3 April.

Please confirm the Government's decision on UK participation in this Regulation as soon as possible. I would also be grateful for further details on your policy position on the draft text, including any amendments the UK has achieved or is seeking to make during negotiations. In the meantime, this document remains under scrutiny.

I look forward to your response within 10 working days.

*4 April 2019*

**Letter from the Rt Hon Caroline Nokes, Minister of State for Immigration**

Thank you for your letter dated 4 April on the above proposal.

The Government will decide whether to opt out of this measure by 19 May. We did not make amendments to the draft text and have no current plans to seek amendments during negotiations.

There was insufficient time in the (European) Parliamentary timetable to allow discussion of these regulations before the European Parliament elections in May. We anticipate a Rapporteur will be appointed after the summer but believe the current text might enable the UK to continue contributing to FADO, subject to the outcome of Withdrawal Agreement decisions and negotiations on the UK's future relationship with the EU on internal security cooperation.

*9 May 2019*

**Letter from the Rt Hon Caroline Nokes, Minister of State for Immigration**

I am writing to inform you that I have today made a statement to Parliament announcing the Government's decision to not opt out of the draft FADO Regulation.

This is a continuing measure and the Government values the benefits of FADO. It is a very useful EU tool which helps us to validate identity and travel documents, primarily for border, immigration and wider law enforcement purposes. It is a database which contains detailed images of genuine travel and identity documents issued by EU member states and false documents encountered at the border and elsewhere. We have always been a key contributor to the FADO database and the draft Regulation will ensure the continuity and development of FADO. The FADO system itself will remain fundamentally unchanged.

Until the UK leaves the EU we remain a full member, and the Government will continue to consider the application of the UK's opt-out from EU legislation on a case by case basis, with a view to

maximising the UK's efforts to collaborate with EU on a security partnership once the UK leaves the EU.

*4 June 2019*

**Letter from the Chairman to the Rt Hon Caroline Nokes, Minister of State for Immigration**

Thank you for your letters dated 9 May and 4 June 2019 on the above proposal, which the EU Home Affairs Sub-Committee considered at its meeting on 12 June.

We are content to clear this file from scrutiny and do not require a response.

*12 June 2019*