



Council of the  
European Union

Brussels, 9 June 2017  
(OR. en)

5988/16  
EXT 1

CH 3  
FL 2  
JAI 87  
CRIMORG 9  
ENFOPOL 30  
RELEX 93  
DAPIX 21

### **PARTIAL DECLASSIFICATION**

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of document: 5988/16

dated: 24 May 2016

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Subject: "Prüm Decisions" - Recommendation for a COUNCIL DECISION authorising the negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss Confederation and the Principality of Liechtenstein, on the other part, 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

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Delegations will find attached the partially declassified version of the above-mentioned document.



Brussels, 24 May 2016  
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**RESTREINT UE/EU RESTRICTED**

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**NOTE**

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From: Presidency

To: COREPER / Council

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No. prev. doc.: 13621/15 RESTREINT UE

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Subject: "Prüm Decisions" - Recommendation for a COUNCIL DECISION authorising the negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss Confederation and the Principality of Liechtenstein, on the other part, 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

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1. On 30 October 2015, the Commission submitted to the Council a Recommendation for a Council Decision authorising the negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss Confederation and the Principality of Liechtenstein, on the other part, 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.

2. This was discussed at the JHA Counsellors meeting of 1 December 2015, at which Member States were invited to submit by 10 December 2015 comments in writing.
3. Subsequent to the comments received, in particular with regard to Protocol (No 21) and the UK position, the Council Legal Service (CLS) examined the Commission proposal. The Working Party on Information Exchange and Data protection (DAPIX) was informed by the CLS on the state of play of the file at its meeting of 26 January 2016. Delegations were, in particular, informed about the suggested widening of the scope of negotiations to Council Framework Decision 2009/905/JHA on accreditation of forensic service providers carrying out laboratory activities.
4. The Presidency has subsequently amended the draft Council Decision, as set out in the Annex to this note. Apart from widening the scope to Council Framework Decision 2009/905/JHA on accreditation of forensic service providers, these changes relate in particular to the addition of the legal basis and to the clarification of the position of Denmark, Ireland and the United Kingdom.
5. Following the UK notification from 24 July 2013 pursuant to Article 10 (4) of the Protocol (No 36) on transitional provisions annexed to the Treaties, Council Decision 2008/615/JHA, Council Decision 2008/616/JHA and the Forensic Decision 2009/905/JHA ceased to apply to the UK as from 1 December 2014. However, pursuant to Article 4 of the Protocol (No 21), the UK may at any time after the adoption of a measure by the Council pursuant to Title V of TFEU notify its intention to the Council and to the Commission that it wishes to accept that measure in which case the procedure provided for in Article 331(1) of the TFEU will apply.
6. The UK notified the Commission and the Council by letter on 22 January 2016 of its wish to participate in Council Decision 2008/615/JHA, Council Decision 2008/616/JHA and the Forensic Decision 2009/905/JHA.

7. Article 331(1) TFEU provides that the Commission shall, within four months of the date of receipt of the notification, confirm the participation of the Member State concerned. The Commission confirmed the participation of the UK on 20 May 2016.
8. *COREPER is invited to agree to the annexed version of the draft Council Decision, so that it can be submitted to the Council for adoption.*

Draft

**COUNCIL DECISION**

authorising ~~the~~ **to open** negotiations for the conclusion of agreements between the European Union, on the one part, and the Swiss Confederation and the Principality of Liechtenstein, on the other part, on the **application of modalities of participation of those States in** certain provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, ~~and 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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular **Article 82(1)(d) and Article 87(2)(a), in conjunction with** Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

(1) Whereas negotiations should be opened for the conclusion of agreements with the Swiss Confederation and the Principality of Liechtenstein, on the **application of certain provisions modalities of the participation by those States in the provisions** of Council Decision 2008/615/JHA of 23 June 2008 on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the "Prüm Decision 2008/615/JHA"), of Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime (the "Prüm implementing Decision 2008/616/JHA"), and of the Annex thereto, **and of Council Framework Decision 2009/905/JHA of 30 November 2009 on accreditation of forensic service providers carrying out laboratory activities (the Forensic Decision 2009/905/JHA)**

**(2) Ireland is bound by the Prüm Decision 2008/615/JHA, the Prüm implementing Decision 2008/616/JHA, and the Annex thereto, and the Forensic Decision 2009/905/JHA, and is therefore taking part in the adoption of this Decision.**

**(3) UK is bound by the Prüm Decision 2008/615/JHA, the Prüm implementing Decision 2008/616/JHA, and the Annex thereto, and the Forensic Decision 2009/905/JHA, and is therefore taking part in the adoption of this Decision.**

**(4) In accordance with Articles 1 and 2 of the Protocol on the Position of Denmark, annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, Denmark is not taking part in the adoption of this Decision and is not bound by it or subject to its application.**

ADOPTED THIS DECISION:

*Article 1*

The Commission is hereby authorised to **open negotiations**, on behalf of the Union, **for the conclusion of** international agreements with the Swiss Confederation and the Principality of Liechtenstein, on the **application of** modalities of participation of those States in **certain** provisions of Council Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime, and 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.**

*Article 2*

**The negotiations shall be conducted on the basis of** the negotiating directives **of the Council** are set out in the Annex **to this Decision.**

**Article 2 a**

**The Commission is hereby nominated as the Union negotiator.**

*Article 3*

The negotiations shall be conducted in consultation with the Council **Working Party "Information exchange and data protection"**.

*Article 4*

This Decision is addressed to the Commission.

Done at Brussels,

*For the Council*

*The President*

**NOT DECLASSIFIED**

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