

Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

PART THREE

**SEPARATION PROVISIONS**

*TITLE V*

***ONGOING POLICE AND JUDICIAL COOPERATION IN CRIMINAL MATTERS***

*Article 62*

**Ongoing judicial cooperation proceedings in criminal matters**

1 In the United Kingdom, as well as in the Member States in situations involving the United Kingdom, the following acts shall apply as follows:

- a the Convention, established by the Council in accordance with Article 34 of the Treaty on European Union on Mutual Assistance in Criminal Matters between the Member States of the European Union<sup>(1)</sup>, and the Protocol established by the Council in accordance with Article 34 of the Treaty on European Union to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union<sup>(2)</sup>, shall apply in respect of mutual legal assistance requests received under the respective instrument before the end of the transition period by the central authority or judicial authority;
- b Council Framework Decision 2002/584/JHA<sup>(3)</sup> shall apply in respect of European arrest warrants where the requested person was arrested before the end of the transition period for the purposes of the execution of a European arrest warrant, irrespective of the decision of the executing judicial authority as to whether the requested person is to remain in detention or be provisionally released;
- c Council Framework Decision 2003/577/JHA<sup>(4)</sup> shall apply in respect of freezing orders received before the end of the transition period by the central authority or the competent judicial authority for execution, or by a judicial authority in the executing State with no jurisdiction to recognise or execute a freezing order, but which transmits the freezing order *ex officio* to the competent judicial authority for execution;
- d Council Framework Decision 2005/214/JHA<sup>(5)</sup> shall apply in respect of decisions received before the end of the transition period by the central authority or the competent authority in the executing State, or by an authority of the executing State with no jurisdiction to recognise or execute a decision, but which transmits the decision *ex officio* to the competent authority for execution;
- e Council Framework Decision 2006/783/JHA<sup>(6)</sup> shall apply in respect of confiscation orders received before the end of the transition period by the central authority or the competent authority of the executing State, or by an authority in the executing State with no jurisdiction to recognise or execute a confiscation order, but which transmits the confiscation order *ex officio* to the competent authority for execution;
- f Council Framework Decision 2008/909/JHA<sup>(7)</sup> shall apply:

- (i) in respect of judgments received before the end of the transition period by the competent authority of the executing State, or by an authority of the executing State with no competence to recognise and enforce a judgment, but which transmits the judgment *ex officio* to the competent authority for execution;
- (ii) for the purposes of Article 4(6) or Article 5(3) of Framework Decision 2002/584/JHA, where that Framework Decision is applicable by virtue of point (b) of this paragraph;
- g Council Framework Decision 2008/675/JHA<sup>(8)</sup> shall apply in respect of new criminal proceedings within the meaning of Article 3 of that Framework Decision that are initiated before the end of the transition period;
- h Council Framework Decision 2009/315/JHA<sup>(9)</sup> shall apply in respect of requests for information on conviction received before the end of the transition period by the central authority; however, after the end of the transition period, replies to such requests shall not be transmitted through the European Criminal Records Information System established pursuant to the Council Decision 2009/316/JHA<sup>(10)</sup>;
- i Council Framework Decision 2009/829/JHA<sup>(11)</sup> shall apply in respect of decisions on supervision measures received before the end of the transition period by the central authority or the competent authority in the executing State, or by an authority of the executing State with no competence to recognise a decision, but which forwards it *ex officio* to the competent authority for execution;
- j Article 10(3) of Directive 2011/93/EU of the European Parliament and the Council<sup>(12)</sup> shall apply in respect of requests for information received before the end of the transition period by the central authority; however, after the end of the transition period, replies to such requests shall not be transmitted through the European Criminal Records Information System established pursuant to Decision 2009/316/JHA;
- k Directive 2011/99/EU of the European Parliament and of the Council<sup>(13)</sup> shall apply in respect of European protection orders received before the end of the transition period by the central authority or the competent authority of the executing State, or by an authority of the executing State with no competence to recognise a European protection order, but which forwards it *ex officio* to the competent authority for execution;
- l Directive 2014/41/EU of the European Parliament and of the Council<sup>(14)</sup> shall apply in respect of European Investigation Orders received before the end of the transition period by the central authority or the executing authority, or by an authority in the executing State with no competence to recognise or execute a European Investigation Order which forwards it *ex officio* to the executing authority for execution.

2 The competent authorities of the United Kingdom may continue to participate in the joint investigation teams in which they were participating before the end of the transition period, where those investigation teams were set up either in accordance with Article 13 of the Convention established by the Council in accordance with Article 34 of the Treaty on European Union, on Mutual Assistance in Criminal Matters between the Member States of the European Union or in accordance with Council Framework Decision 2002/465/JHA<sup>(15)</sup>.

By way of derogation from Article 8 of this Agreement, the United Kingdom shall be entitled to use, for no longer than one year after the end of the transition period, the Secure Information Exchange Network Application (SIENA) to the extent strictly necessary for the purpose of exchanging information within the joint investigation teams referred to in the first subparagraph of this paragraph. The United Kingdom shall reimburse the Union for the actual costs incurred by the Union as a consequence of facilitating the United Kingdom's use of SIENA. The Union shall communicate the amount of those costs to the United Kingdom by 31 March 2021. In the event that the

communicated amount of the actual costs incurred considerably diverges from the best estimates amount that was communicated by the Union to the United Kingdom before the signature of this Agreement, the United Kingdom shall pay without delay to the Union the best estimates amount and the Joint Committee shall determine the manner in which the difference between the actual costs incurred and the best estimates amount is to be addressed.

3 Eurojust may, upon a request by the United Kingdom, subject to compliance with point (a) of Article 26a(7) and Article 27 of Council Decision 2002/187/JHA<sup>(16)</sup>, provide information, including personal data, from its Case Management system, if necessary to complete the ongoing procedures referred to in points (a), (b) (c), (e) and (l) of paragraph 1 of this Article or the activities of the joint investigation teams referred to in paragraph 2 of this Article. The United Kingdom's competent authorities may, upon request, provide Eurojust with information in their possession if necessary to complete the ongoing procedures referred to in points (a), (b), (c), (e) and (l) of paragraph 1 of this Article or the activities of the joint investigation teams referred to in paragraph 2 of this Article. Where expenses of any extraordinary nature arise out of the application of this paragraph, the Joint Committee shall determine the manner in which such expenses are to be addressed.

- (1) [OJ C 197, 12.7.2000, p. 3.](#)
- (2) [OJ C 326, 21.11.2001, p. 2.](#)
- (3) Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States ([OJ L 190, 18.7.2002, p. 1.](#))
- (4) Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence ([OJ L 196, 2.8.2003, p. 45.](#))
- (5) Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties ([OJ L 76, 22.3.2005, p. 16.](#))
- (6) Council Framework Decision 2006/783/JHA of 7 October 2006 on the application of the principle of mutual recognition to confiscation orders ([OJ L 328, 24.11.2006, p. 54.](#))
- (7) 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 purpose of their enforcement in the European Union ([OJ L 327, 5.12.2008, p. 27.](#))
- (8) 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 ([OJ L 220, 15.8.2008, p. 32.](#))
- (9) 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 ([OJ L 93, 7.4.2009, p. 23.](#))
- (10) 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 ([OJ L 93, 7.4.2009, p. 33.](#))
- (11) 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 on supervision measures as an alternative to provisional detention ([OJ L 294, 11.11.2009, p. 20.](#))
- (12) Directive 2011/93/EU of the European Parliament and 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 ([OJ L 335, 17.12.2011, p. 1.](#))
- (13) Directive 2011/99/EU of the European Parliament and of the Council of 13 December 2011 on the European protection order ([OJ L 338, 21.12.2011, p. 2.](#))
- (14) Directive 2014/41/EU of the European Parliament and of the Council of 3 April 2014 regarding the European Investigation Order in criminal matters ([OJ L 130, 1.5.2014, p. 1.](#))
- (15) Council Framework Decision 2002/465/JHA of 13 June 2002 on joint investigation teams ([OJ L 162, 20.6.2002, p. 1.](#))
- (16) Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime ([OJ L 63, 6.3.2002, p. 1.](#))