

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 63

**Ongoing law enforcement cooperation proceedings,
police cooperation and exchange of information**

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 Articles 39 and 40 of the Convention implementing the Schengen Agreement of 14 June 1985 ("Schengen Implementing Convention")⁽¹⁾, in conjunction with Articles 42 and 43 thereof, shall apply in respect of:
 - (i) requests in accordance with Article 39 of the Schengen Implementing Convention that are received before the end of the transition period by the central body responsible in the Contracting Party for international police cooperation or by competent authorities of the requested Party, or by requested police authorities which do not have the power to deal with the request, but which forward the request to the competent authorities;
 - (ii) requests for assistance in accordance with Article 40(1) of the Schengen Implementing Convention that are received before the end of the transition period by an authority designated by a Contracting Party;
 - (iii) cross-border surveillance that is carried out without prior authorisation in accordance with Article 40(2) of the Schengen Implementing Convention, where that surveillance started before the end of the transition period;
- b the Convention drawn up on the basis of Article K.3 of the Treaty on European Union, on mutual assistance and cooperation between customs administrations⁽²⁾ shall apply in respect of:
 - (i) requests for information that are received before the end of the transition period by the requested authority;
 - (ii) requests for surveillance that are received before the end of the transition period by the requested authority;
 - (iii) requests for enquiries that are received before the end of the transition period by the requested authority;

- (iv) requests for notification that are received before the end of the transition period by the requested authority;
- (v) requests for authorisation of cross-border surveillance or for entrusting observation to the officers of the Member State in whose territory observation is carried out that are received before the end of the transition period by an authority designated by the requested Member State that is empowered to grant the requested authorisation or to pass on the request;
- (vi) cross-border surveillance that is carried out without prior authorisation in accordance with Article 40(2) of the Schengen Implementing Convention, where that surveillance started before the end of the transition period;
- (vii) requests to carry out controlled delivery that are received before the end of the transition period by the requested authority;
- (viii) requests to authorise covert investigations that are received before the end of the transition period by the requested authority;
- (ix) joint special investigation teams that are set up pursuant to Article 24 of that Convention before the end of the transition period;
- c Council Decision 2000/642/JHA⁽³⁾ shall apply in respect of requests that are received before the end of the transition period by the requested Financial Intelligence Unit;
- d Council Framework Decision 2006/960/JHA⁽⁴⁾ shall apply in respect of requests that are received before the end of the transition period by the requested competent law enforcement authority;
- e Council Decision 2007/533/JHA⁽⁵⁾ shall apply in respect of the exchange of supplementary information where there was a hit before the end of the transition period on an alert issued in the Schengen Information System, provided its provisions apply to the United Kingdom on the last day of the transition period. By way of derogation from Article 8 of this Agreement, the United Kingdom shall be entitled to use, for no longer than 3 months after the end of the transition period, the Communication Infrastructure as referred to in Article 8(1) of Decision 2007/533/JHA to the extent strictly necessary for the purpose of exchanging such supplementary information. 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 the Communication Infrastructure. The Union shall communicate to the United Kingdom the amount of those costs 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;
- f Council Decision 2007/845/JHA⁽⁶⁾ shall apply in respect of requests received before the end of the transition period by an Asset Recovery Office;
- g Directive (EU) 2016/681 of the European Parliament and of the Council⁽⁷⁾ shall apply in respect of requests received by the passenger information unit in accordance with Articles 9 and 10 of that Directive before the end of the transition period.

2 By way of derogation from Article 8, 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 to complete the ongoing procedures referred to in points (c), (d), (f) and (g) of paragraph 1 of this Article.

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 to the United Kingdom the amount of those costs 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.

- (1) Convention implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the gradual abolition of checks at their common borders ([OJ L 239, 22.9.2000, p. 19](#)).
- (2) [OJ C 24, 23.1.1998, p. 2](#).
- (3) Council Decision 2000/642/JHA of 17 October 2000 concerning arrangements for cooperation between financial intelligence units of the Member States in respect of exchanging information ([OJ L 271, 24.10.2000, p. 4](#)).
- (4) 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 ([OJ L 386, 29.12.2006, p. 89](#)).
- (5) Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) ([OJ L 205, 7.8.2007, p. 63](#)).
- (6) 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 other property related to, crime ([OJ L 332, 18.12.2007, p. 103](#)).
- (7) Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime ([OJ L 119, 4.5.2016, p. 132](#)).