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Subject: Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND
OF THE COUNCIL repealing certain acts in the field of police cooperation
and judicial cooperation in criminal matters (Schengen *acquis*)

Delegates will find an amended version of Doc 6068/15 revising the Commission's proposal for a Decision of the European Parliament and of the Council repealing certain acts in the field of police and judicial cooperation in criminal matters (Schengen *acquis*) attached in the Annex.

The changes made reflect the comments made at the PROAPP (FOP) meeting of 6 March and the written comments received from Member States.

Changes to the Commission's proposal are highlighted in underlined bold and ~~strikethrough~~.

Proposal for a

**REGULATION ~~DECISION~~ OF THE EUROPEAN PARLIAMENT AND OF THE
COUNCIL**

**repealing certain acts in the field of police cooperation and judicial cooperation in criminal
matters (Schengen *acquis*)**

THE EUROPEAN PARLIAMENT AND 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) and (c) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national Parliaments,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) Improving the transparency of Union law is an essential element of the better law-making strategy that the institutions of the Union are implementing. In that context it is appropriate to remove from the legislation in force those acts which no longer serve any purpose.
- (2) A number of acts adopted in the field of police cooperation and judicial cooperation in criminal matters, **and belonging to the Schengen *acquis***, are no longer relevant due to their temporary nature or because their content has been taken up by successive acts, even though they have not been repealed.

- (3) Decision of the Executive Committee SCH/Com-ex (93)14¹ aimed at improving practical judicial cooperation for combating drug trafficking only for cases of refusal of cooperation by a Member State. That decision became obsolete since entry into force of the Convention on Mutual assistance in Criminal matters between the Member States of the European Union² that provides for a broader co-operation among Member States in the drug policy.
- (4) Declaration of the Executive Committee SCH/Com-ex (97) decl. 13 rev 2³ addressed the situations of the abductions of minors or the unlawful removal of a minor by one of the parents from the person to whom the right of custody has been attributed. That declaration became obsolete after the entry into force of Regulation (EC) No 562/2006 of the European Parliament and of the Council⁴ and Commission Implementing Decision 2013/115/EU⁵ providing for new rules on the check of minors crossing an external border and in relation to the corresponding activities of the SIRENE bureaus.
- (5) Decision of the Executive Committee SCH/Com-ex (98) 52⁶ adopted the Schengen handbook on cross-border police cooperation assisting Member States in carrying out cross-border operations. That decision became obsolete after the handbook's content has been included in the more recent Updated catalogue of recommendations for the correct application of the Schengen *acquis* and best practices: police cooperation, Handbook on cross-border operations and Compendium on law enforcement liaison officers.

¹ Decision of the Executive Committee of 14 December 1993 on improving practical judicial cooperation for combating drug trafficking (SCH/Com-ex (93) 14) (OJ L 239, 22.9.2000, p. 427).

² Convention of 29 May 2000, 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 (OJ C 197, 12.7.2000, p. 3) and Protocol to the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union established by the Council in accordance with Article 34 of the Treaty on European Union (OJ C 326, 21.11.2001, p. 1).

³ Declaration of the Executive Committee of 9 February 1998 on the abduction of minors (SCH/Com-ex (97) decl. 13 rev 2) (OJ L 239, 22.9.2000, p. 436).

⁴ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

⁵ Commission Implementing Decision 2013/115/EU of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II) (OJ L 71, 14.3.2013, p. 1).

⁶ Decision of the Executive Committee of 16 December 1998 on the Handbook on cross-border police cooperation (SCH/Com-ex (98) 52) (OJ L 239, 22.9.2000, p. 408).

- (5a) Decision of the Executive Committee SCH/Com-ex (99)11 Rev. 2⁷ adopted an agreement on cooperation regarding road traffic offences. That agreement was not concluded only between certain Member States but also with two third States (Iceland and Norway). It is therefore not an internal act of the Schengen *acquis*. In addition, it has never entered into force and none of the Member States has made a declaration under Article 20(3) regarding the application of the agreement between those Member States having ratified it. Therefore, this instrument has no relevance and should be repealed.**
- (6) Council Decision 2008/173/EC⁸ set out the detailed scope, organization, coordination and validation procedures for certain tests aiming at assessing whether the Schengen Information System II (SIS II) complies with the technical and functional requirements as defined in the SIS II legal instruments. That decision exhausted its legal effect once the SIS II started operation on 9 April 2013.
- (7) For reasons of legal certainty and clarity, those obsolete Decisions and Declarations should be repealed.
- (8) Since the objective of this **Regulation** ~~Decision~~, namely the repeal of a number of obsolete Union acts in the field of police cooperation and judicial cooperation in criminal matters cannot be achieved by Member States but only at Union level, this **Regulation** ~~Decision~~ complies with the requirements of the principle of subsidiarity as set out in Article 5 of the Treaty. In accordance with the principle of proportionality, as set out in that Article, this **Regulation** ~~Decision~~ does not go beyond what is necessary in order to achieve that objective.

⁷ **Decision of the Executive Committee of 28 April 1999 on the Agreement on cooperation in proceedings for road traffic offences (SCH/Com-ex (99)11 Rev. 2) (OJ L 239, 22.9.2000, p. 428).**

⁸ Council Decision 2008/173/EC of 18 February 2008 on the tests of the second generation Schengen Information System (SIS II) (OJ L 57, 1.3.2008, p. 14).

- (9) In accordance with Article 1 of the Protocol No 22 on the ~~p~~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 Regulation Decision and is not bound by it or subject to its application. Given that this Regulation builds upon the Schengen *acquis*, Denmark shall, in accordance with Article 4 of that Protocol, decide within a period of six months after the Council has decided on this Regulation whether it will implement it in its national law.
- (10) This Regulation Decision constitutes a development of provisions of the Schengen *acquis* in which Ireland is taking part in accordance with Article 5 of the Protocol integrating the Schengen *acquis* into the framework of the European Union annexed to the Treaty on European Union and to the Treaty on the Functioning of the European Union, and Article 6(2) of Council Decision 2002/192/EC⁹.
- (11) Following the notification made by the United Kingdom on 24 July 2013 in accordance with Article 10(4), first sentence, first subparagraph, of Protocol No 36 on transitional provisions, the obsolete Decisions and Declarations referred to above have ceased to apply to the United Kingdom as from 1 December 2014, pursuant to Article 10(4), first paragraph, second sentence, of the said Protocol. The United Kingdom is therefore not taking part in the adoption of this Regulation and is not bound by it or subject to its application. On 24 July 2013, the United Kingdom made the notification referred to in the first subparagraph of Article 10(4) of Protocol (No 36) on transitional provisions that it does not accept, with respect to the acts referred to in Article 10(1) of that Protocol, the powers of the institutions referred to in Article 10(1) of Protocol. As a consequence, all acts referred to in Article 10(1) of that Protocol shall cease to apply to the United Kingdom as from 1 December 2014. On 20 November 2014 the United Kingdom made the notification referred to in Article 10(5) of that Protocol. The United Kingdom notified, with effect on 1 December 2014, its wish to participate in 35 acts which would otherwise cease to apply to it as from the same date pursuant to Article 10(4) of the same Protocol. This list of 35 notified acts does not include the ones referred to in this Decision. The United Kingdom is therefore not taking part in the adoption of this Decision.

⁹ OJ L 64, 7.3.2002, p. 20.

- (12) As regards Iceland and Norway, this **Regulation Decision** constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the latter's association with the implementation, application and development of the Schengen *acquis*¹⁰ which fall within the area referred to in Article 1 of Council Decision 1999/437/EC¹¹.
- (13) As regards Switzerland, this **Regulation Decision** constitutes a development of provisions of the Schengen *acquis* within the meaning of the Agreement concluded between the European Union, the European Community and the Swiss Confederation concerning the association of the Swiss Confederation with the implementation, application and development of the Schengen *acquis*¹², which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2008/149/JHA¹³.

¹⁰ OJ L 176, 10.7.1999, p. 36.

¹¹ Council Decision 1999/437/EC of 17 May 1999 on certain arrangements for the application of the Agreement concluded by the Council of the European Union and the Republic of Iceland and the Kingdom of Norway concerning the association of those two States with the implementation, application and development of the Schengen *acquis* (OJ L 176, 10.7.1999, p. 31).

¹² OJ L 53, 27.2.2008, p. 52.

¹³ Council Decision 2008/149/JHA 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 *acquis* (OJ L 53, 27.2.2008, p. 50)

- (14) As regards Liechtenstein, this **Regulation** ~~Decision~~ constitutes a development of the provisions of the Schengen *acquis* within the meaning of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to 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 *acquis* ¹⁴, which fall within the area referred to in Article 1 of Decision 1999/437/EC read in conjunction with Article 3 of Council Decision 2011/349/EU ¹⁵,

¹⁴ OJ L 160, 18.6.2011, p. 3.

¹⁵ Council Decision 2011/349/EU of 7 March 2011 on the conclusion on behalf of the European Union of the Protocol between the European Union, the European Community, the Swiss Confederation and the Principality of Liechtenstein on the accession of the Principality of Liechtenstein to 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 *acquis*, relating in particular to judicial cooperation in criminal matters and police cooperation (OJ L 160, 18.6.2011, p. 1).

HAVE ADOPTED THIS **REGULATION** ~~DECISION~~:

Article 1

Repeal of obsolete acts

The **following acts are repealed**:

- Decisions of the ~~Executive Committee~~ SCH/Com-ex (93)14 **(combating drug trafficking)**;
- ~~the Declaration of the Executive Committee~~ SCH/Com-ex (97) decl. 13 rev 2 **(abduction of minors)**;
- **Decision** and (98) 52 **(police handbook)**;
- **Decision SCH/Com-ex (99)11 Rev. 2 (road traffic offences)**
- and ~~the Council Decision~~ 2008/173/EC **(SIS II tests)** are repealed.

Article 2

Entry into force

This **Regulation** ~~Decision~~ shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States in accordance with the Treaties.

Done at Brussels,

For the European Parliament
The President

For the Council
The President
