# Regulation (EU) 2016/95 of the European Parliament and of the Council of 20 January 2016 repealing certain acts in the field of police cooperation and judicial cooperation in criminal matters

## REGULATION (EU) 2016/95 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

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repealing certain acts in the field of police cooperation and judicial cooperation in criminal matters

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 Articles 82(1), 83(1), 87(2) and 88(2) 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[(1)],

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 repeal 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 have become obsolete because their content has been taken up by successive acts.

(3) Council Joint Action 96/610/JHA[(2)] created a Directory of specialised counterterrorist competences, skills and expertise in order to make them more widely and readily available to agencies in all Member States. That Joint Action became obsolete after the entry into force of Council Decision 2009/371/JHA[(3)], which entrusts Europol with supporting and strengthening mutual cooperation between the law enforcement authorities of the Member States in preventing and combating terrorism and other forms of serious crime, and of Council Decision 2008/615/JHA[(4)], which introduced a new framework for cross-border cooperation on combating terrorism.

(4) Council Joint Action 96/699/JHA[(5)] designated the Europol Drugs Unit as the authority to which information from Member States concerning chemical profiling was to be transmitted. That Joint Action became obsolete after the entry into force of Decision 2009/371/JHA.

(5) Council Joint Action 96/747/JHA[(6)] aimed to strengthen the cooperation between Member States' law enforcement agencies by creating a directory of areas of specialised competencies, skills and expertise. That Joint Action became obsolete after the entry into force of Decision 2009/371/JHA, which entrusts Europol with the task

of developing specialised knowledge of the investigative procedures of the Member States' competent authorities and to provide advice on investigations.

(6) Council Joint Action 96/750/JHA[7] aimed to reinforce the cooperation of the relevant authorities of the Member States in the fight against drug addiction and to call on Member States to approximate their laws to make them mutually compatible to the extent necessary to prevent and combat illegal drug trafficking in the Union. That Joint Action became obsolete after the entry into force of the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union established by Council Act 2000/C-197/01[8] and of Council Framework Decision 2004/757/JHA[9].

(7) Council Joint Action 97/339/JHA[10] allowed for cooperation and mandated information sharing between Member States regarding large scale events which are attended by large numbers of people from more than one Member State in order to maintain law and order, protect people and their property, and prevent criminal offences. That Joint Action became obsolete after the entry into force of Council Decisions 2008/615/JHA, 2002/348/JHA[11] and 2007/412/JHA[12], which provide for new rules on the exchange of non-personal and personal data and other forms of cooperation for maintaining public order and security for major events.

(8) Council Joint Action 97/372/JHA[13] aimed to increase information and intelligence sharing among customs authorities and other law enforcement authorities, in particular on drugs. That Joint Action became obsolete after the entry into force of Council Act 98/C-24/01[14] drawing up the Convention on Mutual Assistance and Cooperation between Customs Administrations which introduced detailed rules on mutual assistance and cooperation between the Member States for preventing and detecting infringements of national customs provisions, of Council Decision 2009/917/JHA[15], which increases the effectiveness of the cooperation and control procedures of the customs authorities by setting up a customs information system, and of Decision 2009/371/JHA, which entrusts Europol with tasks aimed at supporting customs cooperation.

(9) The Convention of 17 June 1998 on Driving Disqualifications, as drawn up by Council Act 98/C-216/01[16], was ratified by only seven Member States and has never entered into force. In addition, among those seven Member States, only Ireland and the United Kingdom made a declaration in accordance with Article 15(4) of that Convention which allowed the Convention to apply between them before its entry into force in all Member States. However, following notification by the United Kingdom on 24 July 2013 in accordance with the first sentence of the first subparagraph of Article 10(4) of Protocol No 36 on transitional provisions, that Council Act and that Convention have ceased to apply to the United Kingdom as from 1 December 2014, pursuant to the second sentence of the first subparagraph of Article 10(4) of that Protocol. As those instruments are no longer applicable between any of the Member States, they have lost their relevance in the Union *acquis* and should be repealed.

(10) Council Joint Action 98/427/JHA[17] established a system of exchange of good practice among Member States for executing requests for legal assistance in criminal matters.

That Joint Action became obsolete after the entry into force of the Convention on Mutual Assistance in Criminal Matters between the Member States.

(11) Council Framework Decision 2008/978/JHA[(18)] on the European evidence warrant (EEW) was replaced by Directive 2014/41/EU of the European Parliament and of the Council[(19)] on the European Investigation Order (EIO) because the scope of the EEW was too limited. As the EIO will apply between 26 Member States and the EEW will remain applicable between the only two Member States which do not participate in the EIO, the EEW has, therefore, lost its usefulness as an instrument of cooperation in criminal matters and should be repealed.

(12) For reasons of legal certainty and clarity, those obsolete Joint Actions, that Convention, that Council Act and that Framework Decision should be repealed.

(13) Although Article 83(1) of the Treaty on the Functioning of the European Union (TFEU) provides for the adoption of directives, the choice of a regulation as an instrument for repealing Joint Action 96/750/JHA and Framework Decision 2008/978/JHA is appropriate because this Regulation does not establish minimum rules concerning the definition of criminal offences and sanctions, but only repeals obsolete acts without replacing them with new ones.

(14) Since the objective of this Regulation, namely the repeal of a number of obsolete Union acts in the field of police cooperation and judicial cooperation in criminal matters cannot be sufficiently achieved by the Member States but can rather be better achieved at Union level, the Union may adopt measures in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary in order to achieve that objective.

(15) In accordance with Articles 1 and 2 of Protocol No 22 on the position of Denmark, annexed to the TEU and to the TFEU, Denmark is not taking part in the adoption of this Regulation and is not bound by it or subject to its application.

(16) In accordance with Article 3 and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, Ireland has notified its wish to take part in the adoption and application of this Regulation.

(17) Following the notification made by the United Kingdom on 24 July 2013 in accordance with the first sentence of the first subparagraph of Article 10(4) of Protocol No 36 on transitional provisions, Joint Actions 96/610/JHA, 96/699/JHA, 96/747/JHA, 96/750/JHA, 97/339/JHA, 97/372/JHA and 98/427/JHA, and Council Act 98/C-216/01 have ceased to apply to the United Kingdom as from 1 December 2014, pursuant to the second sentence of the first subparagraph of Article 10(4) of that Protocol. The United Kingdom is therefore not taking part in the adoption of this Regulation with regard to those legal acts and is not bound by it or subject to its application. However, in accordance with the third sentence of the first subparagraph of Article 10(4) of that Protocol, Framework Decision 2008/978/JHA remained applicable in the United Kingdom as replaced by Directive 2014/41/EU. Therefore, in accordance with Article 3

and Article 4a(1) of Protocol No 21 on the position of the United Kingdom and Ireland in respect of the area of freedom, security and justice, annexed to the TEU and to the TFEU, the United Kingdom has notified its wish to take part in the adoption and application of this Regulation,

HAVE ADOPTED THIS REGULATION:

*Article 1*

**Repeal of obsolete acts**

The following acts are repealed:

— Joint Action 96/610/JHA (directory of counter-terrorism competences),
— Joint Action 96/699/JHA (chemical profiling of drugs),
— Joint Action 96/747/JHA (directory of competences on fight against organised crime),
— Joint Action 96/750/JHA (combatting drug addiction and trafficking),
— Joint Action 97/339/JHA (cooperation on law and order and security),
— Joint Action 97/372/JHA (cooperation between customs authorities),
— Council Act 98/C-216/01 and the Convention of 17 June 1998 (driving disqualifications),
— Joint Action 98/427/JHA (good practice in mutual legal assistance in criminal matters), and
— Framework Decision 2008/978/JHA (European evidence warrant).

*Article 2*

**Transitional provision**

Any European evidence warrant executed under Framework Decision 2008/978/JHA shall continue to be governed by that Framework Decision until the relevant criminal proceedings have been concluded with a definitive decision.

*Article 3*

**Entry into force**

This Regulation 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 the Member States in accordance with the Treaties.