Regulation (EU) 2016/94 of the European Parliament and of the Council of 20 January 2016 repealing certain acts from the Schengen acquis in the field of police cooperation and judicial cooperation in criminal matters

REGULATION (EU) 2016/94 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 20 January 2016

repealing certain acts from the Schengen *acquis* 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 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[(1)],

Whereas:

(1) Improving the transparency of Union law is an essential element of the better lawmaking 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 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.

(3) Decision of the Executive Committee SCH/Com-ex (93) 14[(2)] aimed to improve practical judicial cooperation for combating drug trafficking only for cases of refusal of cooperation by a Member State. That Decision 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[(3)],which provides for deeper cooperation among Member States in the field of mutual assistance on all offences and therefore also on drug trafficking.

(4) Declaration of the Executive Committee SCH/Com-ex (97) decl. 13, rev. 2[(4)] addressed the abduction of minors and the unlawful removal of a minor by one of the parents from the person to whom the right of custody has been granted. That Declaration became obsolete after the entry into force of Regulation (EC) No 562/2006 of the European Parliament and of the Council[(5)] and Commission Implementing Decision 2013/115/EU[(6)], which provide 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) 52[(7)] adopted the Schengen handbook on cross-border police cooperation assisting Member States in carrying out

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2016/94 of the European Parliament and of the Council. (See end of Document for details)*

cross-border operations. That Decision became obsolete after the handbook's content was included in the updated catalogue of recommendations for the correct application of the Schengen *acquis* and best practices in police cooperation, handbook on cross-border operations and compendium on law enforcement liaison officers.

(6) Decision of the Executive Committee SCH/Com-ex (99)11 Rev. 2[8] adopted an Agreement on Cooperation in Proceedings for Road Traffic Offences. That Agreement was concluded between certain Member States and also with two third states (Iceland and Norway). It is therefore not part 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) of that Agreement regarding the application of the Agreement between those Member States having ratified it. Therefore, that Decision has no relevance and should be repealed.

(7) Council Decision 2008/173/JHA[9] set out the detailed scope, organisation, coordination and validation procedures for certain tests aiming to assess 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 lost its legal effect once the SIS II became operational on 9 April 2013.

(8) For reasons of legal certainty and clarity, those obsolete Decisions and Declaration should be repealed.

(9) 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 and belonging to the Schengen *acquis*, 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.

(10) In accordance with Articles 1 and 2 of the Protocol No 22 on the position of Denmark, annexed to the TEU and to the Treaty on the Functioning of the European Union (TFEU), Denmark is not taking part in the adoption of this Regulation 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.

(11) This Regulation constitutes a development of the provisions of the Schengen *acquis* in which Ireland is taking part in accordance with Article 5(1) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, annexed to the TEU and to the TFEU, and Article 6(2) of Council Decision 2002/192/EC[10].

(12) 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, the obsolete Decisions and Declaration referred to above 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 and is not bound by it or subject to its application.

(13) As regards Iceland and Norway, this Regulation constitutes a development of the 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 latters' association with the implementation, application and development of the Schengen *acquis*[(11)] which fall within the area referred to in Article 1 of Council Decision 1999/437/EC[(12)].

(14) As regards Switzerland, this Regulation constitutes a development of the 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*[(13)], 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/JHA[(14)].

(15) As regards Liechtenstein, this Regulation 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*[(15)], 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[(16)],

HAVE ADOPTED THIS REGULATION:

Article 1

Repeal of obsolete acts

The following acts are repealed:

— Decision SCH/Com-ex (93) 14 (combating drug trafficking),
— Declaration SCH/Com-ex (97) decl. 13, rev. 2 (abduction of minors),
— Decision Sch/Com-ex (98) 52 (police handbook),
— Decision SCH/Com-ex (99)11 Rev. 2 (road traffic offences), and
— Decision 2008/173/JHA (SIS II tests).

Article 2

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*.