



**COUNCIL OF
THE EUROPEAN UNION**

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**PROAPP 1
JAI 154
CATS 39
SCHENGEN 4**

LIMITE

NOTE

from:	Presidency
to:	Delegations of the Friends of Presidency Group
Subject:	Application of Article 10 of Protocol 36 to the Treaties

I. INTRODUCTION

1. On 20 February 2014, COREPER took note of the activation of the Friends of Presidency Group for the purpose of reflecting and providing guidance and input on the application of Article 10 of Protocol 36 to the Treaties, and endorsed its terms of reference¹.

According to its terms of reference, the Group is charged with "*examining all the issues linked to the end of the 5 year transitional period set out in Article 10 of Protocol 36 to the Treaties, and in full compatibility with the Treaties*". It will report to Coreper.

¹ Doc 6527/1/14.

The Group has been given three main tasks:

2. Its first task should be *"to scrutinize the list of measures which are concerned with the application of Article 10(1) to (3) of the Protocol, i.e. acts of the Union in the field of police cooperation and judicial cooperation in criminal matters which have been adopted before the entry into force of the Treaty of Lisbon"* (i.e. so-called ex-third pillar acts, see point 2 of the Group's terms of reference).
3. As a second task, *"the Group could examine whether any of these acts are such that it can be unequivocally considered that they are obsolete or of such character that they could be repealed without causing any concern as regards the practical operability or coherence in the area of freedom, security and justice"* (see point 3 of the Group's terms of reference).
4. The Group's third task will be to examine *"issues linked to the end of applicability of the relevant acts to the United Kingdom and to the possibility for the United Kingdom to notify its wish to participate in such acts, according to Article 10(5) of the Protocol, including the requirements of practical operability and coherence referred to in the last sentence of that provision, as well as the avoidance of a legal gap in the application of key Union instruments in the area. The Group will do so bearing in mind that the procedures for re-opting in to the relevant measures will differ between non-Schengen measures, for which Article 331(1) TFEU will apply, and Schengen measures, for which Article 4 of Protocol 19 will apply. With regard to issues concerning the Schengen acquis, the Group may be helped by the relevant experts in charge of that acquis"* (see point 4 of the Group's terms of reference).
5. It is recalled that Article 10 of Protocol 36 contains essentially two parts: the first one, contained in paragraphs 1 to 3, sets out the general 5 year transitional period which concerns all Member States;¹ the second one, contained in paragraphs 4 and 5, sets out "block opt-out/re-opting in" provisions which concern specifically the UK.

¹ Taking into account of the specific situation of Denmark under Protocol 22.

II. GENERAL 5 YEAR TRANSITIONAL PERIOD (ARTICLE 10(1) TO (3) OF PROTOCOL 36)

6. Article 10 (1) to (3) of Protocol 36 introduced a transitional period of five years following the entry into force of the Lisbon Treaty during which the pre-Lisbon regime provided for in Article 35 of the former TEU continues to apply, i.e. no infringement powers of the Commission and limited judicial powers of the Court of Justice. This transitional period concerns "*acts of the Union in the field of police cooperation and judicial cooperation in criminal matters*" adopted before 1 December 2009.
7. Under paragraph 2 of Article 10, during the 5 year transitional period, as soon as an ex-third pillar act is "lisbonised" (i.e. amended or replaced by an act adopted post-Lisbon), the instrument falls within the usual powers of the said EU institutions for those Member States to which the amended or replaced act applies¹.
8. As from 1 December 2014, these limitations will end and the pre-Lisbon ex-third pillar *acquis* will be submitted to the full powers of the Court of Justice and of the Commission.²
9. The Commission will soon transmit a list of such pre-Lisbon ex-third pillar *acquis*. In waiting for this list, a list of ex-third pillar acts which have already been "lisbonised" since the entry into force of the Lisbon Treaty or are in the process of being "lisbonised", either very soon (i.e. adoption before the end of the current European Parliament's term of office) or in the coming months (i.e. a legislative proposal being under examination in the relevant EU institutions), is annexed to this note.

¹ I.e. with regard to the UK or IE, only when they have opted in that amending or replacing act in accordance with Protocols 19 or 21. Pursuant to Protocol 22, DK is not bound by acts adopted on the basis of the JHA Title of the TFEU (Title V of Part Three).

² Taking into account of the specific situation of Denmark under Protocol 22.

III. SPECIFIC "BLOCK OPT-OUT/RE-OPTING IN" PROVISIONS CONCERNING THE UK (ARTICLES 10(4) AND (5) OF PROTOCOL 36)

10. Article 10(4) of Protocol 36 provide the UK with the possibility to notify the Council at least 6 months before the end of the transitional period (by 31 May 2014) that it does not accept to submit to the infringement powers of the Commission and to the full powers of the Court due to take effect on 1 December 2014. As a result, all non-lisbonised ex-third pillar *acquis* will "*cease to apply to*" the UK as from 1 December 2014.
11. By letter of 24 July 2013¹, the UK Permanent Representative notified the Council that the UK has made use of the above option not to accept the Commission and Court full powers regarding pre-Lisbon ex-third pillar *acquis* (block opt-out).
12. According to Article 10(5) of Protocol 36, the UK "*may, at any time afterwards, notify the Council of its wish to participate in acts which have ceased to apply to it pursuant to [the previous paragraph]*", using the opting-in provisions provided for, respectively, in Protocol 19 with regard to Schengen measures, and in Protocol 21 for the non-Schengen measures (see below on the respective procedures). The UK has informally indicated its intention to seek to opt back into a number of instruments of the relevant *acquis*².
13. A way to avoid a legal and operational gap would be to proceed with technical work so as to allow both for the formal re-opting in notification by the UK and the formal adoption of the relevant decisions authorising the UK re-opting in (by the Commission for the non-Schengen *acquis* and by the Council for the Schengen *acquis*) to take place on Monday 1 December 2014, while fully respecting each institution's respective role in the procedure (i.e. the Commission's role under Article 331(1) TFEU regarding the non-Schengen ex-third pillar *acquis* and the Council's role under Article 4 of Protocol 19 regarding the Schengen ex-third pillar *acquis*). This would require preparing all texts needed in advance.

¹ Doc. 12750/13.

² See list of 35 measures referred to in the letter dated 9 July 2013 addressed by the UK representatives in CATS to their colleagues Heads of Delegation of CATS.

Due to national procedures with the UK Parliament, the Presidency is of the understanding that the UK Government would need to finalise its position on the re-opting list by June 2014, so that these national internal procedures can take place before the UK parliament's summer recess. Therefore, it would be appropriate that the list of acts which will be subject to re-opting in be "politically" agreed by June.

14. Pursuant to the last sentence of paragraph 5, when considering the UK request to re-opt in, the Union institutions involved and the UK " *shall seek to re-establish the widest possible measure of participation of the United Kingdom in the acquis of the Union in the area of freedom, security and justice without seriously affecting the practical operability of the various parts thereof, while respecting their coherence*". This means that both the UK and the Union (i.e. the Council and the Commission before allowing, under their respective powers, the re-participation of the UK) will have to respect these three tests: (1) widest possible measure of participation, (2) not seriously affecting the practical operability of the various parts of the JHA *acquis*, and (3) respecting the coherence of these various parts.
15. Finally, the second and third subparagraphs of Article 10(4) of Protocol 36 confer on the Council the power to adopt, by qualified majority, on a proposal from the Commission, two kinds of decisions: a decision(s) "*determin[ing] the necessary consequential and transitional arrangements*" and a decision(s) "*determining that the [UK] shall bear the direct financial consequences, if any, necessarily and unavoidably incurred as a result of the cessation of its participation in those acts*". The decisions would need to be separate because of different voting rights for the UK (i.e. the UK may not vote in the first one (transitional/consequential) but is allowed to vote in the second (financial consequences)). These texts should also be prepared well in advance of 1 December 2014.

16. As regards transitional arrangements, two potential cases triggering the need for such arrangements could be identified.

The first case concerns the situation in which transitional provisions are necessary to keep ex-third pillar acts otherwise subject to the block opt-out applicable until the proposal(s) for the new replacing or amending instrument(s), in which the UK has already opted in, is adopted (i.e. lisbonisation could not take place before 1 December 2014, but is under way).

The second case concerns the situation which would occur if the UK would notify on 1 December 2014 its wish to re-opt into a number of ex-third pillar acts, but the re-opting authorisation decisions by the Commission and/or the Council, for some reason, could not be taken on 1 December 2014. In this case, transitional provisions could provide that all ex-third pillar acts which are on the "politically" agreed list of re-opting in could be kept applicable to the UK until the re-opting in is formally authorised by the Commission and/or the Council in accordance with the relevant Protocols.

17. As regards, consequential arrangements, they would concern, for instance, acts in which the UK will not re-opt in, regarding which there would be a need to deal e.g. with on-going individual procedures.

Protocol 21 (non-Schengen measures)

18. Pursuant to Article 4 of Protocol 21, the UK will have to notify both the Council and the Commission of its wish to re-opt in into the relevant ex-third pillar instruments. The procedure of Article 331 (1) TFEU for enhanced cooperation will then apply *mutatis mutandis*. This Article confers on the Commission the power, within four months from the date of receipt of the notification, "*to confirm the participation of the Member State concerned*" in the act(s) in question. The procedure provides for the possibility to indicate arrangements to be taken to fulfil conditions of participation and, ultimately, in case the Commission would consider that the conditions of participation are not met, the UK could refer the matter to the Council for decision on its request to re-participate.

Protocol 19 (Schengen measures)

19. Pursuant to Article 4 of Protocol 19, the UK "*may at any time request to take part in some or all of the provisions of the Schengen acquis. The Council shall decide on the request by unanimity*" (of the Schengen Member States and the UK). The UK request to take part in some of the provisions of the Schengen *acquis* should be notified to the Council. Therefore, one of the important tasks for the Group will be to discuss and agree on the text of this future Council Decision.

The parallel issue of the SIS II on-going evaluation process

20. On the basis of the existing Council Decision of 29 May 2000 (2000/365/EC) which authorised the UK to take part in some of the provisions of the Schengen *acquis* (i.e. the part on police cooperation, including SIS-police, with the exception of the part related to borders and SIS-borders), the UK asked in November 2012 to join SIS II (its participation to SIS I had been set aside waiting for the SIS II to enter into operation) and to be therefore evaluated to that purpose. On 10 July 2013, the Schengen Evaluation Group agreed on a schedule for the evaluation.¹ The first part of it, on data protection, took place in October 2013 and the Council agreed the relevant conclusions on 3 March 2014.² The second part of it, i.e. a live evaluation of the SIS II, was planned to take place as from November 2014. The latter presupposes that the Council would first decide unanimously, by April, to provisionally allow the UK to load and use real SIS data and to enter in the SIS alerts stemming from UK databases. The issue was discussed on 5 February 2014 at the SIS-SIRENE Working Party, at which further clarifications from the UK and contributions from delegations were requested.³

¹ Doc. 9907/13.

² Doc. 6479/14 and doc. 5324/1/14 REV 1 RESTREINT UE/EU RESTRICTED.

³ See doc. 7038/14.

21. Given the fact that the two files obviously collide (block opt-out list in which the SIS II *acquis* is listed and which is part of the informal list of 35 re-opting in measures, and the above evaluation process which entails allowing the UK to load the police part of SIS II), it is believed that this issue should be addressed also in the Friends of Presidency Group, taking into account of the work already underway in the relevant working parties.

IV. ITEMS FOR DISCUSSION AND SUGGESTIONS

22. In view of the above issues, the Presidency invites delegations to examine the above mentioned analysis, in the light of the terms of reference which mandate the Group to examine "*all the issues linked to the end of the 5 year transitional period*", bearing in mind that the procedures for re-opting in to the relevant measures will differ between non-Schengen measures, for which Protocol 21 will apply, and Schengen measures, for which Protocol 19 will apply.
23. With regard to the first task of the Group, the Presidency invites delegations, as soon as the Commission transmits the list of ex-third pillar *acquis*, to scrutinize it with a view to reaching a general consensus on the list, it being understood that this list should be kept updated along with the "lisbonisation" process.

For transparency and legal certainty reasons, it could be useful to publish, on 1 December 2014, the final list of *acquis* to which the end of the 5 year transitional period will apply (publication for information, in the "C" part of the OJ).

24. With regard to the second task of the Group, i.e. that of examining whether any of the above acts could be considered obsolete or should be repealed (see paragraph 3 above), the Presidency suggests that this issue could be examined at a later stage of the Group's work. It is recalled that repealing existing legal acts would require the Commission (or Member States) to submit appropriate proposals (or initiatives) to the EU legislature.

25. With regard to the third task of the Group, the Presidency suggests that the Group:
- (a) scrutinizes the list of ex-third pillar *acquis* which has not been lisbonised for the UK (that list should also be kept updated along with the "lisbonisation" process);
 - (b) examines the informal list of 35 measures to which the UK indicated its intention to re-opt in, concentrating on the list of Schengen measures, so as to prepare the draft text of the Council Decision by which the UK will be authorised to re-participate in some of the provisions of the Schengen *acquis*.

In doing so, the Group should apply the three tests set out in the last sentence of Article 10(5) of Protocol 36 (see paragraph 14 above). It is also recalled that, in accordance with the relevant case law of the Court regarding the coherence of the Schengen *acquis*, a partial participation by the UK in the Schengen *acquis* should respect the coherence of the subject areas which constitute the set of rules concerned of the Schengen *acquis*.¹

For the same transparency and legal certainty reasons as above, once the re-opting list of *acquis* will have been identified, the list of the (remaining) ex-third pillar *acquis* which "*shall cease to apply to* [the UK]" (i.e. to which the UK will not be re-opting in and which has not been "lisbonised" for the UK) should be published for information in the OJ on 1 December;

- (c) indicates whether the on-going evaluation process regarding the putting into effect of SIS II for the UK should go on separately (i.e. whether the Council should, by April, unanimously decide to provisionally allow the UK to load and use real SIS data and to enter in the SIS alerts stemming from UK databases, so that "live" evaluation can take place in November 2014) or whether, given the parallel process of the UK's block opt-out and re-opting in to the relevant *acquis*, all these issues should be dealt with as part of the latter process, taking into account the work already done in the relevant working parties;

¹ In its case-law on the Schengen *acquis*, the Court of Justice underlined "*the need for coherence of that acquis, and the need - where that acquis evolves - to maintain that coherence, must be taken into account*" (Case C-482/08, judgment of 26 October 2010, *UK v. Council*, ECR p. I-10413, point 48).

- (d) examines the need for transitional arrangements in cases referred to above in paragraph 16, as well as the need for consequential arrangements (see paragraph 17 above), and, as the case may be, recommends the Council to invite the Commission to make the necessary proposals. Delegations are invited to indicate whether there are, in their view, other possible need for decisions referred to in paragraph 15 above.
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LIST OF EX-THIRD PILLAR ACTS
WHICH HAVE ALREADY BEEN "LISBONISED",
ARE SOON TO BE "LISBONISED"
OR ARE IN THE PROCESS OF BEING "LISBONISED"

NON-SCHENGEN EX-THIRD PILLAR ACQUIS

The following ex-third pillar acts have already been "lisbonised":

I. Acts already "lisbonised" for 27 Member States (DK not bound)

- 1) Council Framework Decision 2001/220/JHA of 15 March 2001 on the standing of victims in criminal proceedings

replaced by Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA;¹

- 2) Council Framework Decision 2002/629/JHA of 19 July 2002 on combating trafficking in human beings

replaced by Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA;²

¹ OJ L 315, 14.11.2012, p. 57.

² OJ L 101, 15.4.2011, p. 1. The UK has opted in post-adoption (see Commission Decision 2011/169/EU of 14 October 2011, OJ L 271, 18.10.2012, p. 49).

- 3) Council Framework Decision 2004/68/JHA of 22 December 2003 on combating the sexual exploitation of children and child pornography
- replaced by Directive 2011/93/EU of the European Parliament and of 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;¹
- 4) Council Framework Decision 2005/222/JHA of 24 February 2005 on attacks against information systems
- replaced by Directive 2013/40/EU of the European Parliament and of the Council of 12 August 2013 on attacks against information systems and replacing Council Framework Decision 2005/222/JHA;²
- 5) Council Decision 2007/551/CFSP/JHA of 23 July 2007 on the signing, on behalf of the European Union, of an Agreement between the European Union and the United States of America on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the United States Department of Homeland Security
- superseded by Council Decision 2012/472/EU of 26 April 2012 on the conclusion of the Agreement between the European Union and the United States of America on the use and transfer of passenger name records to the United States Department of Homeland Security;³
- 6) Council Decision 2008/651/CFSP/JHA of 30 June 2008 on the signing, on behalf of the European Union, of an Agreement between the European Union and Australia on the processing and transfer of European Union-sourced passenger name record (PNR) data by air carriers to the Australian Customs Service
- replaced by Council Decision of 13 December 2011 on the conclusion of the Agreement between the European Union and Australia on the processing and transfer of Passenger Name Record (PNR) data by air carriers to the Australian Customs and Border Protection Service;⁴

¹ OJ L 335, 17.12.2011, p. 1 (corrigendum in OJ L 18, 21.1.2012, p. 7).

² OJ L 218, 14.8.2013, p. 8.

³ OJ L 215, 11.8.2012, p. 4. IE has opted in post-adoption (see doc. 10392/12).

⁴ OJ L 186, 14.7.2012, p. 3.

The following ex-third pillar acts will soon be "lisbonised" (i.e. before end of EP term):

II. Acts soon to be "lisbonised" for 27 Member States (DK not bound)

- 7) [Council Decision 2005/681/JHA of 20 September 2005 establishing the European Police College (CEPOL) and repealing Decision 2000/820/JHA

soon to be amended by Regulation of the European Parliament and of the Council amending Decision 2005/681/JHA establishing the European Police College (CEPOL)]¹

III. Acts soon to be "lisbonised" for 26 Member States (IE has not opted in and DK is not bound)

- 8) Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence

soon to be replaced, as regards freezing of evidence, by Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters (EIO)

- 9) Council Framework Decision 2008/978/JHA of 18 December 2008 on the European evidence warrant for the purpose of obtaining objects, documents and data for use in proceedings in criminal matters

soon to be replaced by Directive of the European Parliament and of the Council regarding the European Investigation Order in criminal matters (EIO)

¹ This act is listed here in brackets because the three months deadline for IE and UK to eventually opt in still runs until 14 March 2014. IE has already indicated it will opt in, UK not yet

IV. Acts soon to be "lisbonised" for 26 Member States (the UK has not opted in and DK is not bound)

- 10) Joint Action 98/699/JHA of 3 December 1998 adopted by the Council on the basis of Article K.3 of the Treaty on European Union, on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and proceeds from crime
- soon to be replaced by Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union.
- 11) Council Framework Decision 2000/383/JHA of 29 May 2000 on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro
- Council Framework Decision 2001/888/JHA of 6 December 2001 amending Framework Decision 2000/383/JHA on increasing protection by criminal penalties and other sanctions against counterfeiting in connection with the introduction of the euro
- soon to be replaced by Directive of the European Parliament and of the Council on the protection of the euro and other currencies against counterfeiting by criminal laws, and replacing Council Framework Decision 2000/383/JHA
- 12) Council Framework Decision 2001/500/JHA of 26 June 2001 on money laundering, the identification, tracing, freezing, seizing and confiscation of instrumentalities and the proceeds of crime
- soon to be amended (replacement of Articles 1(a), 3 and 4) by Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union

- 13) Council Framework Decision 2005/212/JHA of 24 February 2005 on Confiscation of Crime-related Proceeds, Instrumentalities and Property

soon to be amended (replacement of Articles 1 and 3) by Directive of the European Parliament and of the Council on the freezing and confiscation of proceeds of crime in the European Union

The following ex-third pillar acts are in the process of being "lisbonised" (i.e. a proposal is being examined by the EU legislature, but no adoption foreseen before current EP term):

V. Act in the process of being "lisbonised" for all Member States (outside Title V)

- 14) Council Framework Decision 2008/977/JHA of 27 November 2008 on the protection of personal data processed in the framework of police and judicial cooperation in criminal matters

will be replaced when the proposed Directive of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data by competent authorities for the purposes of prevention, investigation, detection or prosecution of criminal offences or the execution of criminal penalties, and the free movement of such data will be adopted by the EU legislature

VI. Acts in the process of being "lisbonised" for 26 Member States (the UK has not opted in and DK is not bound)

15) Council Act of 26 July 1995 drawing up the Convention on the protection of the European Communities' financial interests

- Council Act of 27 September 1996 drawing up a Protocol to the Convention on the protection of the European Communities' financial interests
- Council Act of 19 June 1997 drawing up the Second Protocol of the Convention on the protection of the European Communities' financial interests

will be replaced when the proposed Directive of the European Parliament and of the Council on the fight against fraud to the Union's financial interests by means of criminal law will be adopted by the EU legislature

16) Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)

- Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees
- Council Decision of 2 December 1999 amending the Council Act of 3 December 1998 laying down the staff regulations applicable to Europol employees, with regard to the establishment of remuneration, pensions and other financial entitlements in euro
- Council Decision 2009/934/JHA of 30 November 2009 adopting the implementing rules governing Europol's relations with partners, including the exchange of personal data and classified information
- Council Decision 2009/935/JHA of 30 November 2009 determining the list of third countries with which Europol shall conclude agreements
- Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files

- Council Decision 2009/968/JHA of 30 November 2009 adopting the rules on the confidentiality of Europol information

will be amended/replaced when the proposed Regulation of the European Parliament and of the Council on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA will be adopted by the EU legislature

VII. Acts in the process of being "lisbonised" for 25 Member States (IE and the UK have not opted in and DK is not bound)

- 17) Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime

- Council Decision 2003/659/JHA amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime
- Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime

will be replaced when the proposed Regulation of the European Parliament and of the Council on the European Union Agency for Criminal Justice Cooperation (Eurojust) will be adopted by the EU legislature

- 18) Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking

will be amended when the proposed package consisting of a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking and of a Regulation of the European Parliament and of the Council on new psychoactive substances will be adopted by the EU legislature

19) Council Decision 2005/387/JHA of 10 May 2005 on the information exchange, risk-assessment and control of new psychoactive substances

- Council Decision 1999/615/JHA of 13 September 1999 defining 4-MTA as a new synthetic drug which is to be made subject to control measures and criminal penalties
- Council Decision 2002/188/JHA of 28 February 2002 concerning control measures and criminal sanctions in respect of the new synthetic drug PMMA
- Council Decision 2003/847/JHA of 27 November 2003 concerning control measures and criminal sanctions in respect of the new synthetic drugs 2C-I, 2C-T-2, 2C-T-7 and TMA-2
- Council Decision 2008/206/JHA of 3 March 2008 defining 1-benzylpiperazine (BZP) as a new psychoactive substance which is to be made subject to control measures and criminal provisions

will be amended/replaced when the proposed package consisting of a Directive of the European Parliament and of the Council amending Council Framework Decision 2004/757/JHA of 25 October 2004 laying down minimum provisions on the constituent elements of criminal acts and penalties in the field of drug trafficking and of a Regulation of the European Parliament and of the Council on new psychoactive substances will be adopted by the EU legislature

SCHENGEN EX-THIRD PILLAR ACQUIS

The following ex-third pillar acts have already been "lisbonised":

- 20) Decision of the Executive Committee of 16 September 1998 (SCH/Com-ex (98) 26 def) setting up a Standing Committee on the evaluation and implementation of Schengen replaced by Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen¹
- 21) Commission Decision 2008/334/JHA of 4 March 2008 adopting the SIRENE Manual and other implementing measures for the second generation Schengen Information System (SIS II) replaced by Commission Implementing Decision of 26 February 2013 on the Sirene Manual and other implementing measures for the second generation Schengen Information System (SIS II)²

¹ OJ L 295, 6.11.2013, p. 27.

² OJ L 123, 8.5.2008, p. 39.