Council of the
European Union

Brussels, 12 February 2019
(OR. en)

5979/19

Interinstitutional File:
2019/0011 (NLE)

MIGR 10
JAI 91
FRONT 35
RELEX 82
COMIX 57

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	COUNCIL DECISION concerning the notification by the United Kingdom of Great Britain and Northern Ireland of its wish no longer to take part in some of the provisions of the Schengen *acquis* which are contained in Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network

COUNCIL DECISION (EU) 2019/…

of …

concerning the notification by the United Kingdom of Great Britain and Northern Ireland of its wish no longer to take part in some of the provisions of the Schengen *acquis* which are contained in Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the proposal from the European Commission,

Having regard to Protocol No 19 on the Schengen *acquis* integrated 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 in particular to Article 5(3) thereof,

Having regard to the notification, under Article 5(2) of Protocol No 19 on the Schengen *acquis* integrated into the framework of the European Union, by the Government of the United Kingdom of Great Britain and Northern Ireland, by its letter to the President of the Council of 1 October 2018, of its wish not to take part in the proposal for a Regulation of the European Parliament and of the Council on the creation of a European network of immigration liaison officers,

Whereas:

(1) The United Kingdom has taken part in Council Regulation (EC) No 377/2004[1], as amended by Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011[2].

(2) On 1 October 2018, within the required three-month deadline, the United Kingdom notified the President of the Council of its wish not to take part in the adoption of the recast of Regulation (EC) No 377/2004 proposed by the Commission on 16 May 2018 and received by the Council in all the required languages on 2 July 2018.

(3) Regulation (EC) No 377/2004 aims to enhance cooperation between immigration liaison officers posted in third countries, notably by setting out an obligation to establish local or regional networks among immigration liaison officers, as well as by promoting the use of a dedicated e-tool for regular exchanges of information within the local networks and establishing a reporting system on the activities of immigration liaison officers' networks through bi-annual Presidency reports, without requiring the use of any operational systems or directly interacting with any legal provisions contained in other legal instruments that are part of the Schengen *acquis*.

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1 Council Regulation (EC) No 377/2004 of 19 February 2004 on the creation of an immigration liaison officers network (OJ L 64, 2.3.2004, p.1).

2 Regulation (EU) No 493/2011 of the European Parliament and of the Council of 5 April 2011, amending Council Regulation (EC) No 377/2004 on the creation of an immigration liaison officers network (OJ L141, 27.5.2011, p. 13).

(4) The 16 May 2018 proposal for the recast of Regulation (EC) No 377/2004, while aiming to increase coordination and optimise utilisation of immigration liaison officers, including the new European liaison officers deployed to third countries, in order to respond more effectively to EU priorities in the field of migration, does not depart from the nature of the current Regulation (EC) No 377/2004, inasmuch as its specific interaction with the other parts of the Schengen *acquis* is concerned.

(5) The proposal for the recast of Regulation (EC) No 377/2004, just as the current Regulation (EC) No 377/2004, can therefore be considered as a self-standing measure within the Schengen *acquis*, which does not interact operationally with other legal instruments that are part of the Schengen *acquis*.

(6) In this exceptional case, and in the light of the self-standing nature within the Schengen *acquis* of the current Regulation (EC) No 377/2004, it may be considered that, if the United Kingdom no longer participates in the current Regulation, or in any further amendments thereto, but continues to participate in the remaining Schengen *acquis* in which it currently participates pursuant to Council Decision 2000/365/EC[1], this would ensure the widest possible participation of the United Kingdom, without seriously affecting the practical operability of the other parts of the Schengen *acquis* and while respecting their coherence.

[1] Council Decision 2000/365/EC of 29 May 2000 concerning the request of the United Kingdom of Great Britain and Northern Ireland to take part in some of the provisions of the Schengen *acquis* (OJ L 131, 1.6.2000, p.43).

(7) Article 8(2) of Decision 2000/365/EC should therefore, in accordance with Article 5(3) of the Protocol No 19, cease to apply to the United Kingdom of Great Britain and Northern Ireland as regards the current Regulation (EC) No 377/2004 and any further amendments thereto, including the proposal for the recast of Regulation (EC) No 377/2004, as from the entry into force of the proposed recast of Regulation (EC) No 377/2004.

(8) As a consequence, point 6 of Annex I to Council Decision 2004/926/EC[1] as regards Regulation (EC) No 377/2004, in accordance with Article 5(3) of Protocol 19, should equally cease to apply as from the entry into force of the proposed recast,

HAS ADOPTED THIS DECISION:

[1] Council Decision 2004/926/EC of 22 December 2004 on the putting into effect of parts of the Schengen *acquis* by the United Kingdom of Great Britain and Northern Ireland (OJ L 395, 31.12.2004, p. 70).

Article 1

Decision 2000/365/EC and point 6 of Annex I to Decision 2004/926/EC shall cease to apply to the United Kingdom of Great Britain and Northern Ireland as regards Council Regulation (EC) No 377/2004 and any further amendments thereto as from the day of entry into force of the proposed recast of the Regulation of the European Parliament and of the Council on the creation of a European network of immigration liaison officers.

Article 2

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

Done at …,

For the Council
The President