

# SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 4800 GIBRALTAR Thursday 24th December 2020

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LEGAL NOTICE NO. 525 OF 2020.

## EUROPEAN UNION (WITHDRAWAL) ACT 2019

### EXCHANGE OF DATA RELATING TO DNA, FINGERPRINTS AND VEHICLE REGISTRATION (EU EXIT) REGULATIONS 2020

In exercise of the powers conferred upon her by sections 11, 1B, 15 and paragraph 1 of Schedule 3 of the European Union (Withdrawal) Act 2019, and section 25 of the European Union (Withdrawal Agreement) Act 2020, the Minister has made the following Regulations-

#### **Title.**

1. These Regulations may be cited as the Exchange of Data Relating to DNA, Fingerprints and Vehicle Registration (EU Exit) Regulations 2020.

#### **Commencement.**

2. These Regulations come into operation on 1 January 2021.

#### **Revocation of the Prüm Decision and related Council Decisions.**

3.(1) The following are revoked (but see Title VII of Part 3 of the withdrawal agreement and sections 10A and 10C of the European Union (Withdrawal) Act 2019)-

- (a) the Prüm Decision;
- (b) Council Decision 2008/616/JHA of 23 June 2008 on the implementation of Decision 2008/615/JHA on the stepping up of cross-border cooperation, particularly in combating terrorism and cross-border crime;
- (c) Council Decision 2014/836/EU of 27 November 2014 determining certain consequential and transitional arrangements concerning the cessation of the participation of the United Kingdom of Great Britain and Northern Ireland in certain acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon;
- (d) Council Decision 2014/837/EU of 27 November 2014 determining certain direct financial consequences incurred as a result of the cessation of the participation of the United Kingdom of Great Britain and Northern Ireland in certain acts of the Union in the field of police cooperation and judicial cooperation in criminal matters adopted before the entry into force of the Treaty of Lisbon.

**Revocation of domestic legislation.**

4. The Criminal Procedure and Evidence Act (Fingerprint, DNA, and Vehicle Registration Data Exchange) Regulations 2018 are revoked.

**Revocation of Commission Decision (EU) 2016/809.**

5. Commission Decision (EU) 2016/809 of 20 May 2016 on the notification by the United Kingdom of Great Britain and Northern Ireland of its wish to participate in certain acts of the Union in the field of police cooperation adopted before the entry into force of the Treaty of Lisbon and which are not part of the Schengen acquis is revoked.

**Revocation of Council Implementing Decisions.**

6. The following are revoked-

- (a) Council Implementing Decision (EU) 2015/2009 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Poland;
- (b) Council Implementing Decision (EU) 2015/2049 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Sweden;
- (c) Council Implementing Decision (EU) 2015/2050 of 10 November 2015 on the launch of automated data exchange with regard to dactyloscopic data in Belgium;
- (d) Council Implementing Decision (EU) 2016/254 of 12 February 2016 on the launch of automated data exchange with regard to vehicle registration data (VRD) in Latvia;
- (e) Council Implementing Decision (EU) 2016/2047 of 18 November 2016 on the launch of automated data exchange with regard to DNA data in Denmark;
- (f) Council Implementing Decision (EU) 2016/2048 of 18 November 2016 on the launch of automated data exchange with regard to dactyloscopic data in Denmark;
- (g) Council Implementing Decision (EU) 2017/617 of 27 November 2017 on the launch of automated data exchange with regard to DNA data in Greece;
- (h) Council Implementing Decision (EU) 2017/618 of 27 March 2017 on the launch of automated data exchange with regard to vehicle registration data in Denmark;
- (i) Council Implementing Decision (EU) 2017/943 of 18 May 2017 on the automated data exchange with regard to vehicle registration data in Malta,

Cyprus and Estonia, and replacing Decisions 2014/731/EU, 2014/743/EU and 2014/744/EU;

- (j) Council Implementing Decision (EU) 2017/944 of 18 May 2017 on the automated data exchange with regard to dactyloscopic data in Latvia, and replacing Decision 2014/911/EU;
- (k) Council Implementing Decision (EU) 2017/945 of 18 May 2017 on the automated data exchange with regard to DNA data in Slovakia, Portugal, Latvia, Lithuania, Czech Republic, Estonia, Hungary, Cyprus, Poland, Sweden, Malta and Belgium and replacing Decisions 2010/689/EU, 2011/472/EU, 2011/715/EU, 2011/887/EU, 2012/58/EU, 2012/299/EU, 2012/445/EU, 2012/673/EU, 2013/3/EU, 2013/148/EU, 2013/152/EU and 2014/410/EU;
- (l) Council Implementing Decision (EU) 2017/946 of 18 May 2017 on the automated data exchange with regard to dactyloscopic data in Slovenia, Bulgaria, France, Czech Republic, Lithuania, the Netherlands, Hungary, Cyprus, Estonia, Malta, Romania and Finland and replacing Decisions 2010/682/EU, 2010/758/EU, 2011/355/EU, 2011/434/EU, 2011/888/EU, 2012/46/EU, 2012/446/EU, 2012/672/EU, 2012/710/EU, 2013/153/EU, 2013/229/EU and 2013/792/EU;
- (m) Council Implementing Decision (EU) 2017/947 of 18 May 2017 on the automated data exchange with regard to vehicle registration data in Finland, Slovenia, Romania, Poland, Sweden, Lithuania, Bulgaria, Slovakia and Hungary and replacing Decisions 2010/559/EU, 2011/387/EU, 2011/547/EU, 2012/236/EU, 2012/664/EU, 2012/713/EU, 2013/230/EU, 2013/692/EU and 2014/264/EU;
- (n) Council Implementing Decision (EU) 2017/1020 of 8 June 2017 on the launch of automated data exchange with regard to vehicle registration data in Croatia;
- (o) Council Implementing Decision (EU) 2017/1866 of 12 October 2017 on the launch of automated data exchange with regard to vehicle registration data in the Czech Republic;
- (p) Council Implementing Decision (EU) 2017/1867 of 12 October 2017 on the launch of automated data exchange with regard to dactyloscopic data in Portugal;
- (q) Council Implementing Decision (EU) 2017/1868 of 12 October 2017 on the launch of automated data exchange with regard to dactyloscopic data in Greece;
- (r) Council Implementing Decision (EU) 2018/1035 of 16 July 2018 on the launch of automated data exchange with regard to DNA data in Croatia.

**Transitional provision – DNA profiles supplied before commencement day.**

7. Despite the revocations made in regulations 3 to 6, the following provisions of the Prüm Decision continue to have effect –

- (a) Article 5 (supply of further personal data and other information) in relation to the supply by Gibraltar of further personal data and other information in relation to matches shown under Article 3 or 4 of the Prüm Decision before commencement;
- (b) Article 7 (collection of cellular material and supply of DNA profiles) in relation to DNA profiles obtained by Gibraltar before commencement which were not supplied to the requesting Member State prior to commencement;
- (c) paragraph 1 of Article 6 (national contact point and implementing measures) so far as it is relevant to paragraphs (a) or (b).

**Saving provision – information received before commencement day.**

8.(1) This regulation applies in relation to DNA profiles and personal data received by Gibraltar before commencement (and see Title VII of Part 3 of the withdrawal agreement and sections 10A and 10C of the European Union (Withdrawal) Act 2019).

(2) Subject to the modifications in subregulation (3), with the exception of Article 25, Chapter 6 of the Prüm Decision continues to have effect in relation to the data referred to in subregulation (1).

(3) The Prüm Decision applies with the following modifications –

- (a) Article 26 is to be read as if-
  - (i) in paragraph 1-
    - (aa) “by the receiving Member State” were deleted;
    - (ab) the words from “and subject to” to the end were deleted;
  - (ii) in paragraph 2, “by the searching or comparing Member State” were deleted;
  - (iii) in the text after paragraph 2(c), for “The Member State administering the file may process the data supplied to it”, substitute “The data supplied may be processed”;
- (b) Article 27 is to be read as if “and in compliance with the law of the receiving Member State” were deleted;
- (c) paragraph 1 of Article 28 is to be read as if-
  - (i) the first sentence were deleted;

- (ii) after “have been supplied”, there were inserted “by the authorities in Gibraltar”;
  - (iii) for “The Member State or Member States concerned shall be obliged to correct or delete the data”, substitute “The authorities in Gibraltar shall be obliged to correct or delete any data in respect of which the supplying Member State has made such a notification”;
- (d) paragraph 2 of Article 28 is to be read as if-
- (i) “, in accordance with the national law of the Member States,” were deleted;
  - (ii) “subject to the national law of the Member States and” were deleted;
- (e) paragraph 1 of Article 30 is to be read as if the first sentence were “In order to verify the admissibility of the supply, the authorities in Gibraltar shall log every non-automated receipt of personal data by the searching body.”;
- (f) paragraph 2 of Article 30 is to be read as if-
- (i) “other” were deleted from paragraph (a);
  - (ii) in paragraph (b), for “each Member State” substitute “Gibraltar”;
- (g) Article 32 is to be read as if, for “The receiving Member State” substitute “The authorities in Gibraltar”.

Dated: 24<sup>th</sup> December 2020.

S SACRAMENTO,  
Minister for Justice.