



Council of the European Union
General Secretariat

Brussels, 30 July 2021

WK 9907/2021 INIT

LIMITE

**UK
IXIM**

This is a paper intended for a specific community of recipients. Handling and further distribution are under the sole responsibility of community members.

LETTER

From:	General Secretariat of the Council
To:	Delegations

Subject:	TCA: Implementation of reciprocal automated DNA, fingerprint and vehicle registration data exchange - Letter from the UK to the European Commission
----------	---

Part Three, Title II, of the EU UK Trade and Cooperation Agreement (TCA), aims to establish reciprocal cooperation between the competent law enforcement authorities of the United Kingdom, on the one side, and the Member States, on the other side, on the automated transfer of DNA profiles, dactyloscopic data and certain domestic vehicle registration data.

In the framework of implementing Title II, an evaluation on whether the UK fulfils the required conditions for such data transfer has to be carried out. In this context, specific declarations and designations regarding:

- the establishment of domestic DNA files,
- the accreditation of forensic service providers,
- the national contact points (NCP) for data exchange

have to be communicated by the UK to the Specialised Committee on Law Enforcement and Judicial Cooperation in order to trigger the evaluation.

Delegations find in annex the letter of 23 July 2021 from the UK to the Commission.

Factual information provided by this letter will be set out in the Manual on the implementation of the 'Prüm Decisions', kept up to date by the General Secretariat of the Council.

WK 9907/2021 INIT

LIMITE

EN

Member States are also invited to send in their observations, comments or questions regarding the documents and declarations submitted by the UK

to: **secretariat.wpuk@consilium.europa.eu**

and in cc: **jai.data.protection@consilium.europa.eu**

with a view for a discussion in the next WPUK's meeting on 3 September.

Chris Jones
Director, International
Criminality Directorate
Public Safety Group

Home Office
2 Marsham Street
London
SW1P 4DF

+44 (0)7789 724075

23 July 2021

Dear Bruno, Stephen,

Declarations and evaluation procedure pursuant to Title II of Part 3 of the Trade and Cooperation Agreement (Exchanges of DNA, fingerprints and vehicle registration data)

Further to recent discussions, and in the absence of a meeting of the Specialised Committee on Law Enforcement and Criminal Justice in advance of the summer break, I am writing to confirm that the UK remains ready to be evaluated for the ongoing exchange of data between the UK and EU Member States on DNA and Dactyloscopic data.

I can confirm that the United Kingdom has implemented the obligations imposed under Title II of Part 3 of the Trade and Cooperation Agreement (TCA) in respect of DNA and Dactyloscopic data. The UK also wishes to apply Part 3 of the TCA to all Member States that have given the notifications referred to in Article 36(2) of Council Decision 2008/615/JHA.

The UK makes further declarations and designations in accordance with Article 22 of Chapter 0 of Annex 39 of the TCA; these are annexed. You may wish to note that these are similar declarations and designations to those made by the UK as part of the previous evaluation process.

I understand that this information should be sufficient for the EU to now initiate the evaluation procedure foreseen in Title II of Part 3 of the TCA in relation to the exchange of DNA and Dactyloscopic data, taking into account the results of the evaluation procedures carried out in the context of the adoption of Council Implementing Decisions (EU) 2019/968 and (EU) 2020/1188.



Home Office

You have advised that the EU will be unable to conduct the evaluation process within the timetable set out in the TCA necessitating use of the extension foreseen in Article 540(3). That would set a new deadline for the evaluations to be completed of the end of June 2022, if agreed by both parties. The UK can accept this extension to accommodate the evaluation process.

I will write again to notify the information required under Article 537(3) when the UK is ready to be evaluated in relation to the first exchange of vehicle registration data.

Yours sincerely,

Chris Jones

UK Chair of the Specialised Committee on Law Enforcement and Judicial Cooperation

ANNEX A

Implementing the data exchange provisions pursuant to Title II of Part 3 of the Trade and Cooperation Agreement (Exchanges of DNA, fingerprints and vehicle registration data)

The United Kingdom declares it has implemented the obligations imposed under Title II of Part 3 of the Trade and Cooperation Agreement (TCA) in respect of DNA and Dactyloscopic data.

Unless indicated otherwise, references to Articles in the following text are to Articles of the TCA.

Further declarations and designations

In accordance with Article 529(3) (Establishment of domestic DNA analysis files); Article 535(1) (National contact points); Article 538(5) (Accreditation of forensic service providers carrying out laboratory activities); and Article 12(1) of Chapter 0 of Annex 39 (Search capacities for dactyloscopic data) the United Kingdom issues further declarations and designations, as follows:

Article 529(3): DNA analysis files

List of shared national DNA files

In accordance with Article 529(3) the United Kingdom makes the following declarations in respect of its domestic DNA analysis files.

The national DNA database is based on the CODIS (Combined DNA Index System), which is installed at the Metropolitan Police Service.

The Metropolitan Police Service is able to share DNA files with EU Member States participating in Prüm. The following types of profiles will be made available to States:

- **Forensic unknown:** genetic profile obtained from the analysis of human DNA recovered from a crime scene and/or evidence associated with a crime scene/criminal act. The contributor of the DNA is not known.
- **Person:** genetic profile obtained from a biological specimen originating from a known person who is suspected of or has been convicted of a criminal offence.
- **Unidentified human remains:** genetic profile obtained from a human corpse, or part thereof, of unknown identity.

Conditions governing the exchange and comparison of profiles

A country that wants to carry out the exchange and comparison of profiles with the United Kingdom must comply with the legal, organisational and technical requirements laid down in Title II of Part 3 of, and Annex 39 to the TCA, in particular:

- Technical requirements: the country must:
 - Have an automated national DNA database;
 - Have automated means of exchanging profiles;
 - Be connected to the TESTA network;
 - Have confirmation from a country that is already operational that its exchange system is adequate.
- Legal requirements: the country must:
 - Be able to share information under its domestic legislation;
 - Comply with the rules and conditions for processing data set out in the TCA including, in particular, Title II of Part 3 and Annex 39;
 - Have the Council's prior authorisation to exchange data.
- Organisational requirements: the country must:
 - Have a national contact point to which the United Kingdom may apply for additional information further to a DNA profile match.

Article 535(1): Automated searching and comparison of DNA profiles

1. In accordance with Article 535(1), the Metropolitan Police Service is designated as the national contact point for incoming requests.

Metropolitan Police Service
Directorate of Forensic Services
4th Floor, 109 Lambeth Rd
London SE1 7LP
Tel: +44 (0) 203 276 2014
e-mail: MO4Mailbox.-PRUMDNAMailbox@met.police.uk

2. In accordance with Article 535(1), the National Crime Agency is designated as the national contact point for the follow-up consultation procedure after hit notifications.

National Crime Agency
UK International Crime Bureau
PO Box 58345
London NW1 9JJ
Tel: +44 (0) 207 238 8115
e-mail: manchester@nca.gov.uk

Article 535(1): Automated searching of dactyloscopic data

1. In accordance with Article 535(1), the Home Office is designated as the national contact point for incoming requests.

2 Marsham Street

London SW1 4DF

Tel: +44 (0) 845 000 0050

e-mail: ITNOWSERVICEDESK@homeoffice.gov.uk

2. In accordance with Article 535(1), the National Crime Agency is designated as the national contact point for the follow-up consultation procedure after hit notifications.

National Crime Agency

UK International Crime Bureau

PO Box 58345

London NW1 9JJ

United Kingdom

Tel: +44 (0) 207 238 8115

e-mail: manchester@nca.gov.uk

Article 538(5): Accreditation of forensic service providers carrying out laboratory activities

Refer to attachment “Accreditation of Forensic Service Providers Regulations 2018”.

Article 12(1) of Chapter 0 of Annex 39: Search capacities for dactyloscopic data

In accordance with Article 12(1), the maximum search capacities per day for dactyloscopic data will be:

- 750 Tenprint against Tenprint;
- 389 Latent against Tenprint/Palmprint; and
- 326 Searches against unsolved latent (UL) and unsolved palmprint latent (ULP) databases.

Full details of UK search capacities can be found at Annex B.

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)

2018 No 1276

POLICE

Accreditation of Forensic Service Providers Regulations 2018

Made 28th November 2018

Laid before Parliament 3rd December 2018

Coming into force 25th March 2019

The Secretary of State, being a Minister designated for the purpose of [section 2\(2\)](#) of the European Communities Act 1972 in relation to criminal justice, makes the following Regulations in exercise of the powers conferred by that section.

NOTES

Continuation

Notwithstanding the repeal of the [European Communities Act 1972](#), these Regulations shall continue in force: see the [European Union \(Withdrawal\) Act 2018, s 2](#) (subject to the provision in s 5, Sch 1).

[1 Citation and commencement](#)

[2 Interpretation](#)

[3 Scope](#)

[4 Requirement of accreditation](#)

[\[5 Recognition of results\]](#)

[Signature\(s\)](#)

SCHEDULES

[SCHEDULE](#)

[EXPLANATORY NOTE](#)

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made

Made 28th November 2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/1 Citation and commencement

1 Citation and commencement

These Regulations may be cited as the Accreditation of Forensic Service Providers Regulations 2018 and come into force on 25th March 2019.

NOTES

Initial Commencement

Specified date

Specified date: 25 March 2019: see reg 1.

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made

28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/2 Interpretation

2 Interpretation

In these Regulations—

["AWE Aldermaston" means the Atomic Weapons Establishment at Aldermaston;]

"competent law enforcement authorities" means those bodies responsible for the prevention, detection or investigation of criminal offences as specified in the Schedule to these Regulations;

"dactyloscopic data" has the same meaning as in [Title II of Part 3 of the Trade and Cooperation Agreement (exchanges of DNA, fingerprints and vehicle registration data etc)];

"DNA-profile" has the same meaning as in [Title II of Part 3 of the Trade and Cooperation Agreement (exchanges of DNA, fingerprints and vehicle registration data etc)];

["Dstl Fort Halstead" means the Defence Science and Technology Laboratory at Fort Halstead;]

["Dstl Porton Down" means the Defence Science and Technology Laboratory at Porton Down;]

"forensic service provider" means any person that carries out laboratory activities at the request of competent law enforcement authorities;

. . .

"laboratory activity" has the same meaning as in [Title II of Part 3 of the Trade and Cooperation Agreement (exchanges of DNA, fingerprints and vehicle registration data etc)];

["relevant employee" in relation to a particular laboratory activity means an individual who is employed

by an accredited forensic service provider for the purpose of carrying out that laboratory activity;]

[“the Trade and Cooperation Agreement” has the same meaning as in the [European Union \(Future Relationship\) Act 2020](#) (see section 37 of that Act)]

“UKAS” means the United Kingdom Accreditation Service, a company limited by guarantee incorporated in England and Wales under number 03076190.

NOTES

Initial Commencement

Specified date

Specified date: 25 March 2019: see reg 1.

Amendment

Definition “AWE Aldermaston” inserted by [SI 2019/1384, reg 2\(1\), \(2\)\(a\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

In definition “dactyloscopic data” words from “Title II of” to “registration data etc)” in square brackets substituted by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(2\)\(a\)](#).

Date in force: this amendment has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

In definition “DNA-profile” words from “Title II of” to “registration data etc)” in square brackets substituted by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(2\)\(a\)](#).

Date in force: this amendment has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

Definition “Dstl Fort Halstead” inserted by [SI 2019/1384, reg 2\(1\), \(2\)\(b\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

Definition “Dstl Porton Down” inserted by [SI 2019/1384, reg 2\(1\), \(2\)\(b\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

Definition “Framework Decision” (omitted) revoked by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(2\)\(b\)](#).

Date in force: this revocation has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

In definition “laboratory activity” words from “Title II of” to “registration data etc)” in square brackets substituted by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(2\)\(a\)](#).

Date in force: this amendment has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

Definition “relevant employee” inserted by [SI 2019/1384, reg 2\(1\), \(2\)\(c\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

Definition “the Trade and Cooperation Agreement” inserted by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(2\)\(c\)](#).

Date in force: this amendment has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made

28/11/2018

3 Scope

- (1) These Regulations apply to laboratory activity that results in—
 - (a) a DNA-profile, or
 - (b) dactyloscopic data.
- (2) These Regulations do not affect national rules on the judicial assessment of evidence.

NOTES

Initial Commencement

Specified date

Specified date: 25 March 2019: see reg 1.

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made

28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/4 Requirement of accreditation

4 Requirement of accreditation

- (1) Competent law enforcement authorities must use an accredited forensic service provider to conduct any laboratory activity that—
 - (a) is within scope of these Regulations, and
 - (b) is requested in relation to the prevention, detection or investigation of criminal offences.
 - (2) A forensic service provider is accredited if they are either—
 - (a) accredited by UKAS as complying with European standard EN ISO/IEC 17025, or
 - (b) are otherwise accredited in accordance with [paragraph 1 of Article LAW.PRUM.16 of the Trade and Cooperation Agreement] (accreditation).
- [(2A) In respect of laboratory activity carried out—
- (a) at AWE Aldermaston, Dstl Fort Halstead or Dstl Porton Down, and
 - (b) on items which require specialist handling and containment due to the presence of hazardous chemical, biological, radiological or nuclear material or explosive material,

the requirement of accreditation is satisfied if that laboratory activity is carried out by, or under the supervision of, an individual who is a relevant employee in relation to that laboratory activity.]

(3) The requirement of accreditation only applies in relation to laboratory work that is carried out after the commencement of these Regulations.

NOTES

Initial Commencement

Specified date

Specified date: 25 March 2019: see reg 1.

Amendment

Para (2): in sub-para (b) words “paragraph 1 of Article LAW.PRUM.16 of the Trade and Cooperation Agreement” in square brackets substituted by the [European Union \(Future Relationship\) Act 2020, s 10\(1\), \(3\)](#).

Date in force: this amendment has effect from IP completion day (as defined in the [European Union \(Withdrawal Agreement\) Act 2020, s 39\(1\)–\(5\)](#)): see [SI 2020/1662, reg 2\(i\)](#).

Para (2A): inserted by [SI 2019/1384, reg 2\(1\), \(3\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made
28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/[5 Recognition of results]

[5 Recognition of results]

[For the purposes of these Regulations, the results of the following are to be regarded as being equally reliable—

(a) laboratory activity carried out by forensic service providers accredited in accordance with regulation 4(2)(a);

(b) laboratory activity carried out by forensic service providers accredited in accordance with regulation 4(2)(b);

(c) laboratory activity carried out in accordance with regulation 4(2A).]

NOTES

Amendment

Substituted by [SI 2019/1384, reg 2\(1\), \(4\)](#).

Date in force: 20 November 2019: see [SI 2019/1384, reg 1](#).

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made
28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/Signature(s)

Nick Hurd

Minister of State

Home Office

28th November 2018

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made
28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/SCHEDULE

SCHEDULE

Regulation 2

Specified competent law enforcement authorities

1

Any police force maintained under either [section 2](#) or [section 5A](#) of the Police Act 1996.

2

Her Majesty's Revenue and Customs.

3

The British Transport Police Force.

4

The City of London police force.

5

The Civil Nuclear Constabulary.

6

The Home Office.

7

The National Crime Agency.

8

The Police Service of Northern Ireland.

9

The Police Service of Scotland.

10

The Ports Police, being any body of constables appointed under—

- (a) provisions incorporating [section 79](#) of the Harbours, Docks, and Piers Clauses Act 1847; or
- (b) an order made under [section 14\(1\)](#) of the Harbours Act 1964; or
- (c) [section 154](#) of the Port of London Act 1968.

11

The Serious Fraud Office.

NOTES

Initial Commencement

Specified date

Specified date: 25 March 2019: see reg 1.

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made

28/11/2018

UK Parliament SIs 2010-Present/2018/1251-1300/Accreditation of Forensic Service Providers Regulations 2018 (SI 2018/1276)/EXPLANATORY NOTE

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations transpose Council Framework Decision 2009/905/JHA of the 30th November 2009 on accreditation of forensic service providers carrying out laboratory activities (OJ L 322, 9.12.2009, p 14-16).

Regulation 3 limits the scope of the laboratory activities to which the Regulations apply to those which result in the production of DNA-profiles or dactyloscopic (fingerprint) data. It also provides that these Regulations do not affect the existing legal framework regarding the admissibility and assessment of evidence in legal proceedings.

Regulation 4 requires forensic service providers conducting laboratory activities to be accredited to the accreditation standard EN ISO/IEC 17025 on general requirements for the competence of testing and calibration laboratories. Copies of the EN ISO/IEC 17025 standard can be obtained from the British Standards Institute, BSI Customer Services, 389 Chiswick High Road, London W4 4AL, UK (www.bsigroup.com).

Regulation 5 requires specified law enforcement authorities (as defined in the Schedule to these Regulations) to recognise the results of accredited forensic service providers in other member States as being equally reliable as the result of a laboratory activity provided by a UK accredited forensic service provider.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

Document information

Accreditation of Forensic Service Providers Regulations 2018

Date made
28/11/2018

