



Home Office

Rt Hon Caroline Nokes MP
Minister of State for Immigration

Sir William Cash MP
Chair, European Scrutiny Committee
House of Commons
London, SW1A 0AA

2 Marsham Street
London SW1P 4DF
www.gov.uk/home-office

6 FEB 2019

Dear Bill

Amended proposal for a Regulation of the European Parliament and of the Council on the European Union Agency for Asylum and repealing Regulation (EU) No 439/2010

I write to provide a response to your Committee's report of 5 December 2018 on the above proposal and to provide further information concerning the UK Government's approach. I am sorry for the delay in replying.

You asked whether the European Commission and Council agree with the UK Government's analysis on the application of the Title V (justice and home affairs) opt-in Protocol to this proposed amending Regulation. Whilst we are of the view that this proposal does trigger our JHA opt-in process, I can confirm that the Council takes the view that it would not apply. They consider that the amended proposal belongs to the original proposal; therefore, they note in this regard the Commission's amendments did not need to be put in writing.

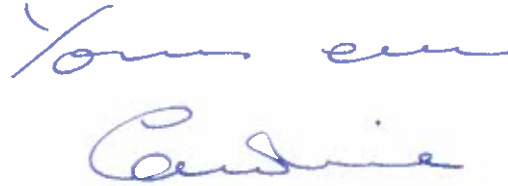
The UK Government's position remains that the JHA opt-in applies to any proposal or initiative presented to the Council (pursuant to Title V)', in line with the text of Protocol (No. 21) to the Treaties. The UK Government has decided, as set out in the Explanatory Memorandum, the amended Commission proposal does not address any of the UK concerns in relation to the text. The UK Government will therefore not be opting into this amended measure. The opt-in recital in the text of any adopted measure will reflect the UK's position not to opt in to this measure.

As you have rightly stated, the Political Declaration sets out a framework which includes recognising the need to protect the most vulnerable. This would include future cooperation on asylum and other forms of international protection, which we believe is in the shared interest to the UK and EU after we leave. The UK Government is committed to securing a close and effective partnership with the EU on asylum matters, including practical cooperation.

The United Kingdom is leaving the EU, not Europe, therefore we are considering a full range of options to ensure that effective cooperation continues. All options for future cooperation are currently being considered, including working with the EUAA throughout the Implementation Period in the event the EUAA Regulation is formally adopted and the new Agency comes into existence. The UK Government is also currently considering all aspects of current cooperation with EASO and considering whether cooperation in specific areas would be beneficial and legally possible. This will of course be subject to future negotiations.

I hope this letter assists you in your further scrutiny.

I am copying this letter to Lord Boswell, Chair of the Lords European Union Committee; Chris Johnson, Clerk to the Lords Committee; Lynn Gardner, Clerk to your Committee; Les Saunders, Department for Exiting the European Union; and Alejandra Bernal, Departmental Scrutiny Coordinator.

A handwritten signature in blue ink, appearing to read 'Yours ever Caroline'.

Rt Hon Caroline Nokes MP
Minister of State for Immigration