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2020/0012 (NLE)

Proposal for a

COUNCIL DECISION

amending Decision (EU) 2019/274 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

(Text with EEA relevance)

EXPLANATORY MEMORANDUM

On 29 March 2017, the United Kingdom notified the European Council pursuant to Article 50 of the Treaty on European Union (TEU) of its intention to withdraw from the European Union and from the European Atomic Energy Community. In accordance with that provision, the European Union negotiated with the United Kingdom an agreement setting out the arrangements for its withdrawal (hereinafter "the Withdrawal Agreement"), taking account of the framework for its future relationship with the Union.

On 11 January 2019, the Council adopted Decision (EU) 2019/274 authorising the signature of the Withdrawal Agreement[1] and transmitted the draft Council Decision on the conclusion of the Withdrawal Agreement to the European Parliament for its consent.

However, the Government of the United Kingdom did not obtain the necessary support from its Parliament to proceed with the signature and ratification of the Withdrawal Agreement and requested the European Council to extend the period provided in Article 50(3) TEU. The European Council granted initially an extension until 12 April 2019[2]. That period was further extended until 31 October 2019[3] and thereafter until 31 January 2020[4]

The third paragraph of Article 185 of the Withdrawal Agreement provides that, when making the written notification of the completion of its necessary internal procedures, the Union, in respect of any Member State which has raised reasons related to fundamental principles of national law of that Member State, may declare that, during the transition period, in addition to the grounds for non-execution of a European arrest warrant referred to in Council Framework Decision 2002/584/JHA[5] the executing judicial authorities of that Member State may refuse to surrender its nationals to the United Kingdom pursuant to a European Arrest Warrant. Article 4 of Decision (EU) 2019/274 provides that those Member States that intend to avail themselves of the possibility provided for in the second paragraph of Article 185 of the Withdrawal Agreement are to inform the Commission and the General Secretariat of the Council of their intention to do so before 15 February 2019.[6]

Given the various extensions of the period under Article 50(3) TEU it is appropriate to set a new time limit within which Member States that intend to avail themselves of that possibility should inform the Commission and the General Secretariat of the Council thereof.

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1 Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 47I, 19.2.2019, p. 1). The text of the Withdrawal Agreement attached to Decision (EU) 2019/274 was published in OJ C 66 I, 19.2.2019, p. 1.

2 European Council Decision (EU) 2019/476 taken in agreement with the United Kingdom of 22 March 2019 extending the period under Article 50(3) TEU (OJ L 80 I, 22.3.2019, p. 1).

3 European Council Decision (EU) 2019/584 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3) TEU (OJ L 101, 11.4.2019, p. 1).

4 European Council Decision (EU) 2019/1810 taken in agreement with the United Kingdom of 29 October 2019 extending the period under Article 50(3)TEU, (OJ L 278I , 30.10.2019, p. 1).

5 Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).

6 Decision (EU) 2019/274 refers to the second paragraph of Article 185 of the Withdrawal Agreement as published in OJ C 66 I, 19.2.2019, p. 1. However, in the adapted Withdrawal Agreement, as published in OJ C 384 I, 12.11.2019, p. 1, the second paragraph has become the third paragraph.

It is therefore necessary to amend Decision (EU) 2019/274 on the signing of the Withdrawal Agreement accordingly.

2020/0012 (NLE)

Proposal for a

COUNCIL DECISION

amending Decision (EU) 2019/274 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community

(Text with EEA relevance)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 50 thereof,

Having regard to the proposal from the European Commission,

Whereas:

(1) On 11 January 2019, the Council adopted Decision (EU) 2019/274[1] on the signing of the Withdrawal Agreement.

(2) By Decision (EU) 2019/476[2], the European Council, in agreement with the United Kingdom, initially extended the period under Article 50(3) TEU until 12 April 2019. That period was further extended until 31 October 2019 by European Council Decision (EU) 2019/584[3], taken in agreement with the United Kingdom, and thereafter until 31 January 2020 by European Council Decision (EU) 2019/1810[4], taken in agreement with the United Kingdom.

(3) The third paragraph of Article 185 of the Withdrawal Agreement, as adapted[5] provides that, when making the written notification of the completion of its necessary internal procedures, the Union, in respect of any Member State which has raised reasons related to fundamental principles of national law of that Member State, may declare that, during the transition period, in addition to the grounds for non-execution of a European arrest warrant referred to in Council Framework Decision

[1] Council Decision (EU) 2019/274 of 11 January 2019 on the signing, on behalf of the European Union and of the European Atomic Energy Community, of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (OJ L 47I, 19.2.2019, p. 1).

[2] European Council Decision (EU) 2019/476 taken in agreement with the United Kingdom of 22 March 2019 extending the period under Article 50(3)TEU (OJ L 80 I, 22.3.2019, p. 1).

[3] European Council Decision (EU) 2019/584 taken in agreement with the United Kingdom of 11 April 2019 extending the period under Article 50(3) TEU (OJ L 101, 11.4.2019, p. 1).

[4] European Council Decision (EU) 2019/1810 taken in agreement with the United Kingdom of 29 October 2019 extending the period under Article 50(3)TEU, (OJ L 278 I, 30.10.2019, p. 1).

[5] The adapted version of the Withdrawal Agreement was published in OJ C 384 I, 12.11.2019, p. 1.

2002/584/JHA[6], the executing judicial authorities of that Member State may refuse to surrender its nationals to the United Kingdom pursuant to a European Arrest Warrant. Pursuant to Article 4 of Decision (EU) 2019/274, those Member States that intend to avail themselves of the possibility provided for in the third paragraph of Article 185 of the Withdrawal Agreement are to inform the Commission and the General Secretariat of the Council of their intention to do so before 15 February 2019.

(4) Given the various extensions of the period under Article 50(3) TEU, it is appropriate to amend Decision (EU) 2019/274 to set a new time limit within which Member States that intend to avail themselves of the possibility provided for in the third paragraph of Article 185 should inform the Commission and the General Secretariat of the Council thereof. At this occasion, it is appropriate to adapt the reference to the relevant paragraph of Article 185 of the Withdrawal Agreement.

(5) Decision (EU) 2019/274 should therefore be amended accordingly.

(6) As provided for in Article 50(4) TEU, the United Kingdom has not taken part in the discussions of the Council concerning this decision or in its adoption,

HAS ADOPTED THIS DECISION:

Article 1

Article 4 of Decision (EU) 2019/274 is replaced by the following:

"*Article 4*

Those Member States that intend to avail themselves of the possibility provided for in the third paragraph of Article 185 of the Agreement shall inform the Commission and the General Secretariat of the Council of their intention to do so before 28 January 2020.".

Article 2

This Decision shall enter into force on the date of its adoption.

Done at Brussels,

For the Council
The President

[6] Council Framework Decision 2002/584/JHA of 13 June 2002 on the European arrest warrant and the surrender procedures between Member States (OJ L 190, 18.7.2002, p. 1).