EUROPOL

2019 CHAIR OF THE **JHA AGENCIES NETWORK**

COSI Report on the
JHA agencies network activities 2019

Contents

Foreword from the Executive Director of Europol

In 2019, it was Europol's honour to chair the Network of Justice and Home Affairs (JHA) Agencies. The first formal COSI of 2020 provides the opportunity for Europol and the other agencies to report on the network's activities during the last calendar year.

The network was established in 2010 to foster greater cooperation among the JHA agencies. From humble and informal beginnings, the network has developed its activities to cover a range of policy and governance issues, bringing together senior executives and technical experts at different times of the year to share expertise, strengthen ties and improve performance. In a recent performance audit on the EU agencies, the European Court of Auditors reported that JHA was the only policy area in which the agencies and corresponding European Commission services meet so regularly, underlining the well-established and strong cooperation.

2019 was a pivotal year for the EU. In planning our agenda for the network, we knew that the election of a new European Parliament, the appointment of a new European Commission, the preparation of the next Multiannual Financial Framework, and of course Brexit, would all have a direct impact in the area of JHA, including the work of the agencies. We sought to reflect this by facilitating a strategic discussion about the contribution the agencies can make to the EU's goals. By discussing this priority topic, the JHA agencies wanted to prepare themselves for potential structural and strategic changes stemming from the new European Parliament and European Commission. At the same time, we worked together to develop policy insights to offer to the EU Member States and the Institutions, as they look afresh at the EU security architecture. This joint endeavour should culminate in the presentation of a joint strategic paper, to be presented on the occasion of the tenth anniversary of the JHA agencies network in July 2020.

Meanwhile my colleague Ladislav Hamran, President of Eurojust, has taken over the Chair of the network, and I am confident that it will go from strength to strength.

Finally, my appreciation goes to the Heads of the JHA agencies and all of their staff who contributed to the work of the network in 2019, without whom the results described further in this report could not have been achieved.

Executive summary

The activities of the JHA agencies network in 2019

In line with previous practice, the JHA agencies network **annual activities in 2019** consisted of three working level meetings (26 and 27 February, 18 and 19 June and 25 and 26 September) as well as a Heads of JHA agencies meeting (22 November.)

As a priority topic for the network in 2019, Europol proposed **engaging in a joint strategic reflection on the role of JHA agencies' cooperation in the future development of the EU security architecture.**

To facilitate the joint strategic reflection, the JHA agencies discussed a number of topics throughout 2019, namely:

— the interoperability of EU large-scale information systems;

— the role and position of agencies vis-à-vis emerging threats with a focus on foreign terrorist fighters and hybrid threats;

— reflection on the European Union Charter of Fundamental Rights;

— good governance in the area of JHA with a focus on:

- diversity and inclusion

- risk management

- the use and role of data in the area of JHA

- public access to documents (PAD) applications

- current and future initiatives regarding whistleblowing

— EU funding mechanisms, opportunities and challenges;

— innovation and role of the JHA agencies.

Moreover, Europol organised a number of meetings[1], which gathered experts from each JHA agency around specific topics such as:

— training (Budapest, 25-26 June, CEPOL)

— diversity and inclusion (The Hague, 5 July, Europol)

— communication (The Hague, 3 September, Europol)

— data protection (The Hague, 4 and 5 July and 26 and 27 September, Europol)

— ICT and cybersecurity (The Hague, 29 November, Europol.)

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[1] The meeting on external relations was postponed to 2020 upon request of DG HOME to ensure the new College of Commissioners would be in office and the internal restructuring of DG HOME would fully be in place.

Summary of the discussions

The number of different areas of cooperation and subjects relevant to JHA agencies touched upon during Europol's chairmanship of the JHA agencies' network demonstrates the importance of the strong and well-established cooperation between the European Institutions and the agencies in the EU area of freedom, justice and security. The JHA agencies work towards an integrated approach covering the entire security and rule of law chain, including enhanced operational and interagency cooperation between police, border guards, judiciary, immigration and asylum authorities. This is important to help EU Member States in ensuring the safety of the EU citizens by providing continuous support in preventing terrorist plots, drugs and firearms trafficking and in the fight against the trafficking of human beings.

While each agency aims at delivering results according to its respective mandate, there are several horizontal challenges which can be addressed only through interagency cooperation.

Ensuring the full use of existing and future large-scale information systems and their interoperability is key. The agencies discussed the role they would have in interoperability and identified a number of issues to take into account when implementing the interoperability package such as the benefit of developing a common training curricula on interoperability for JHA agencies as well as *ad hoc* communication tools (videos, booklets, etc).The use of large scale information systems for security purposes should always be necessary and proportionate and compliant with the fundamental rights of the individuals concerned.

Moreover, agencies that are currently not granted access to the information systems could be given access for strategic analysis purposes (e.g. asylum/migration analysis).

The agencies focused their discussions on two emerging threats in the field of internal security: foreign terrorist fighters (FTFs) and hybrid threats.

All agencies agreed that it would be important to explore some specific issues related to the phenomenon of FTFs such as the role of gender in preventing and countering radicalisation (in view of the increasing number of radicalised women). Training national authorities (both from EU and non-EU countries) on FTFs is key and training packages benefitting from the expertise of the different agencies should be developed. Moreover, discussions revolved around the need for enhanced cooperation by the use of the EMPACT platform and interoperability across databases and agencies. JHA agencies should strive for synergies, and where possible exploit the available 'big' data on a strategic and operational level to discern relevant information and intelligence designed to combat and mitigate the risk from the FTFs phenomenon.

JHA agencies recalled the multidimensional nature of hybrid threats, characterised by a number of features: the use of both conventional and unconventional methods (diplomatic, military, economic, technological, etc.); the variety of actors involved including state, state-sponsored and non-state actors; the use of military and non-military means; the difficulty to detect and attribute hybrid threats; and the fact that they converged to form a targeted destabilisation strategy.

Hybrid threats can be considered as a set of operating methods in the fields of cybersecurity, terrorism, organised crime or covert operations. Despite the fact that the

primary responsibility for countering hybrid threats lies with EU Member States, JHA agencies can have a supporting and complementary function in areas such as: cooperation, analysis and training; early warning; technology watch; coordination and combatting illegal content online.

The JHA agencies emphasised that the respect of fundamental rights remains the guiding principle when performing their tasks. In light of the 10 year anniversary of the Charter of Fundamental Rights and four years on from the signature of the JHA agencies' declaration to strengthen fundamental rights protection in all areas of their work (February 2015), the Heads of the JHA agencies renewed their commitment towards the Charter and endorsed a joint statement on 12 November 2019. The statement affirms the JHA agencies' continous efforts to protect and promote fundamental rights throughout their work. Furthermore, on an annual basis, the JHA agencies' network will exchange best practices regarding the implementation of the Charter.

The agencies remain committed to good governance with the aim of identifying challenges and opportunities to ensuring good governance notably through interagency cooperation.

Through Europol's initiative, the JHA agencies' network broadened its discussions in 2019 by focusing on diversity and inclusion. Discussions provided a comprehensive overview of the approaches and focused on concrete steps to foster diversity and inclusion in the internal structures, procedures and core activities of the agencies. The agencies agreed that it is necessary to broaden the reflection on diversity and inclusion in the JHA agencies in line with the diversity and inclusion strategy for the European Commission staff and encourage more systematic exchanges among the agencies on such matters to balance the lack of resources and avoid duplication of efforts, for example, by creating an informal working group and online platform for the exchange of material and best practices, and by organising joint activities. The discussions led to the adoption of a joint statement on diversity and inclusion by the Heads of the JHA agencies on 22 November 2019.

Under the lead of the EU agencies' network (EUAN) and at the request of DG Budget and the Secretariat-General of the European Commission, the JHA agencies network conducted a risk assessment peer review exercise with the aim to identify common critical risks across the JHA agencies. The following risk profiles were identified:

1) the implementation of additional (including *ad hoc*) requests, resulting in changes to the existing business planning;
2) the delivery of operational demand on time and within initially planned resource margins;
3) a multifaceted, complex business continuity risk profile, including based on the ever-evolving technological pace and cyber security threats;
4) an opportunity for a profile and awareness boost for JHA agencies, supported by legislative initiatives and resource allocation, in the context of the further development of the Security Union under the new European Commission,the European Parliament and forthcoming MFF 2021-2027.

On the way forward, the JHA agencies agreed to continue the dialogue and cooperation to exchange views and best practices in mitigating corporate risks as well as exploring collaboration opportunities with the Secretariat-General of the European Commission.

The JHA agencies discussed the application of the provisions of the new data protection regulation for EU bodies (Regulation 2018/1725), in particular the impact of Chapter IX on the processing of operational data by the JHA agencies. The agencies considered that it would be beneficial for legal certainty if the data processed for fulfilling the purposes of the agencies fall within the material scope of application of Chapter IX. In this context the JHA DPOs considered the harmonisation of the rules also as beneficial to the cooperation with the data protection supervision, the European Data Protection Supervisor and data protection authorities when applicable.

Some agencies also added that despite not having to process operational data, are somehow in touch with personal operational data. In general, then, all agencies need to abide by data protection rules. FRA has published a handbook on data protection law together with European Data Protection Supervisor (EDPS), the Council of Europe and the European Court of Human Rights (ECHR).[2]

The agencies held an informative discussion on the respective modi operandi and internal practices regarding the handling of Public Access to Documents (PAD) applications (including initial and confirmatory applications) focusing on the competent service for processing PAD, the indicative amount of applications received and the methodology regarding the redaction of documents for partial disclosure to the public, internal consultations and approval procedures.

The JHA agencies agreed to examine existing whistleblowing arrangements and identify best practices. A survey aimed at taking stock of the current arrangements in place in JHA agencies was conducted. While all agencies have whistleblowing arrangements in place, there was a limited number of whistleblowing cases. Nonetheless, a number of best practices on the practical application of the whistleblowing arrangements in the JHA agencies were recognised: a clear commitment from management to defined ethical behaviour and a zero tolerance to fraud, with a view to setting the tone at the top, were identified as essential to building trust among staff, for reporting suspected breaches of professional obligations or improper conduct in a safe environment. Furthermore, the availability of clear and easily understandable information on the whistleblowing arrangements, reporting mechanisms, handling of (personal) data and transparent communication on the outcome of cases were highlighted.

As regards to innovation, all the agencies stressed that finding synergies and complementing each others' experience and knowledge should be the leading principles in this area.

The goal is to pool resources at EU level to create innovative solutions together for EU law enforcement and other security actors. This way, instead of investing in 27 different solutions, JHA agencies would invest and work together at the EU level to create one suitable solution for all. The task requires a structured approach, including a joint mapping exercise to combine different foresights and to describe different needs.

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[2] Council of Europe , European Court of Human Rights , European Data Protection Supervisor , European Union Agency for Fundamental Rights, Handbook on European Data Protection Law, 2018 Edition, May 2018.

However, given that innovative solutions are costly, it would be important for the agencies to have access to appropriate resources. Data protection (by design) and fundamental rights should be at the core of any initiatives in this area.

Regarding EU funding opportunities for JHA agencies, discussions focused on the risk of mismatch between the new and increasing number of tasks given to the JHA agencies because of new policy and legislative initiatives and the resources made available to them for their implementation (human resources, budget/MFF, capabilities, etc.). All the agencies agreed on the importance of accessing additional funding opportunities and to better coordinate the pooling of resources when possible.

1. Interoperability of EU information systems

Interoperability, referring to the ability of information systems[3] to exchange data and to enable the sharing of information, has been a priority in the area of Justice and Home Affairs for the past years. The European Council requested the European Commission to prepare legislative proposals on interoperability of EU information systems in 2017.

The debate resulted in two Regulations adopted in May 2019[4], aiming at facilitating information sharing to improve security, allow for more efficient checks at external borders, and contributing to the prevention of irregular migration. The Regulations create the European Search Portal (ESP) allowing authorities to search multiple information systems simultaneously, a Shared Biometric Matching Service (sBMS), a common identity repository (CIR), and a multiple identity detector (MID). The European Commission aims to achieve interoperability by 2023.

Discussions of the JHA agencies network over the year, focused on the role that each of the agencies concerned would have in implementing the interoperability framework, opportunities stemming from the new legislation as well as current and future challenges encountered. Europol contributed to the project through the creation of QUEST, which allows Europol data to be systematically crosschecked.

eu-LISA will set up the components of interoperability: the ESP, the MID, the CIR and the sBMS.

Frontex will have the responsibility to set up and run the ETIAS Central Unit (while eu-LISA will set up and run the ETIAS Central System and the entire ETIAS infrastructure) and will have the task to review and categorise the links that will be created at the start of use of the MID out of the legacy data and cannot be assigned automatically by the system to a precise operationally usable category.

FRA will be represented in the ETIAS Guidance Board on Fundamental Rights.

In December 2018, Eurojust presented at the JHA Council a proposal on Digital Criminal Justice. The aim is a fast, secure and interoperate infrastructure to exchange operational information and evidence between national prosecutors, Eurojust and other JHA agencies. In July 2019, the European Commission with the support of Eurojust and other stakeholders initiated a study on Digital Criminal Justice which aims at better understanding the needs of the judicial community.

The agencies discussed several **common concerns**.

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[3] The systems covered by the two Regulations include the newly established Entry/Exit System (EES), and the European Travel Information and Authorisation System (ETIAS). They further include the Visa Information System (VIS), European Asylum Dactyloscopy Database (EURODAC), the Schengen Information System (SIS) (which are all in the process of being amended), as well as the European Criminal Records Information System on Third Country Nationals (ECRIS-TCN), and other relevant databases on travel documents.
[4] Regulations 2019/817 and 2019/818 of 20 May 2019.

Interoperability can enhance protection, for example, by supporting the detection of missing people, including children. People need to be aware of their rights in terms of data protection in case information on them has mistakenly been included to any of the large-scale IT systems. FRA noted that the Interoperability Regulations incorporate fundamental rights safeguards. Notably the Interoperability Regulations introduce a horizontal fundamental rights clause in Article 5. Challenges can rise in the implementation. Identity inconsistencies are not always linked to fraud and can have legitimate reasons. For example, poor biometric and/or incorrect alphanumerical data can be recorded in the EU IT systems leading to false matches and wrong decisions. Enhanced attention is therefore needed to avoid data entry mistakes by national authorities and to provide individuals with information on the processing of their data and access to effective remedy. Finally, FRA emphasised that law enforcement access to EU information systems should remain an exceptional measure and the conditions need to be interpreted strictly.

CEPOL noted that awareness and training are key to a proper implementation of the interoperability framework.

Several agencies expressed concern for the lack of staff and resources to develop and provide adequate trainings on interoperability to concerned EU Member States authorities as well as to other actors (e.g. EU agencies.) All agencies agreed on the benefit of developing a common training curricula on interoperability for JHA agencies as well as *ad hoc* communication tools (videos, booklets, etc.)

FRA could contribute to the development of training materials and other tools on how to ensure that fundamental rights safeguards are properly addressed.

All the agencies agreed that the agencies which are not explicitly mentioned in the Interoperability Regulations or which are not foreseen to have access to the tools will still be kept informed of the developments. Moreover, it is important that the agencies which are currently not granted access to the information systems might be given access for strategic analysis purposes (e.g. asylum/migration analysis).

An example offered by EASO was that the interoperability tools will enable caseworkers to use fingerprints to query IT-systems and look at the travel history of individuals. In addition, the Central Repository for Reporting and Statistics (CRRS) is strategically important because cross-system data would allow analysts to have a better understanding of movement and migration behaviours, thus providing a wider picture of migratory movements.

Another challenge which was commonly identified properly implementing the interoperability framework and ensuring proper consultation and coordination of the many entities involved at national and international level.

It was recognised that to address this challenge, the European Commission has put a lot of effort in coordinating the meetings where the delegated acts and implementing decisions are discussed, with the aim of developing the practical design of workflows, business processes and operational responsibilities in a coherent and well-concerted manner. The agencies that are primarily involved, also organised dedicated meetings and conference calls to align planning and practical activities among each other. Agencies such as EASO and FRA offered to provide expertise in the area of international protection and fundamental rights, as relevant. The JHA agencies agreed that concerned agencies should continue to have this active role in the future and that the involvement of such expertise from EASO and FRA would be of added value.

All the agencies agreed that the joint effort in making interoperability fully operational will also incentivise growing cooperation between the partnering agencies in the operational use of the interoperability capabilities that are being developed. This will

clearly be in the interest of the EU Member States to receive a well-aligned, comprehensive set of complementary services from the JHA agencies in a way that makes optimal use of the legal and operational capabilities that the interoperability framework was envisaged.

2. Main emerging threats

The role of the JHA agencies in the field of security through operational and technical support to the EU institutions, Member States and third countries has been highly valued in different areas such as in the fight against terrorism and radicalisation, serious and organised crime and cybercrime. The growing importance of the JHA agencies' contribution to EU security is well acknowledged and demonstrated both through the regular assignment of new tasks by the political level (Council of the EU, EEAS and European Commission), and increased demand at the operational level for the agencies' IT systems, expertise and services by EU Member States and third partners. The JHA agencies network decided to focus its discussions on FTFs and Hybrid Threats - two topics which are cross-sectorial in nature and which were also among the priorities of the Romanian and Finnish Presidencies of the Council of the EU.

2.1. Foreign terrorist fighters (FTFs)

The JHA agencies reviewed recent developments regarding FTFs from an EU perspective. Europol explained the role of its Analysis Project Travellers, which provides operational analysis and support to EU Member States regarding travel for terrorist purposes. A representative from the European Counter Terrorism Centre (ECTC) at Europol emphasised that the analysis of the phenomenon is not carried out in an isolated manner – rather that it is considered across the range of Analysis Projects within ECTC and using a range of tools available within the unit, and across Europol.

All agencies agreed that it would be worth exploring some specific topics related to the phenomenon of FTFs such as the role of gender in preventing and countering radicalisation, especially in view of the increasing number of radicalised women.

The discussion also highlighted the importance of training national authorities (both from EU and non-EU Member States) on the FTF topic by, for example, developing training packages benefitting from the expertise of different agencies. CEPOL organises courses on FTFs (one course was recently organised with Frontex), and there are also several webinars. The aspect of management of FTFs has been identified as an area where special training is needed.

It was also stressed that the Schengen Information System (SIS) includes *inter alia* data on serious crime and criminals. As there are two separate articles in the SIS legal base potentially covering also FTFs and allowing EU Member States to insert relevant data, it

is difficult to collect data and to provide statistics strictly about FTFs which makes the whole data collection exercise more difficult.

Eurojust's core mandate is to support EU Member States in investigating and prosecuting FTFs. In September 2019, Eurojust launched the European Judicial Counter Terrorism (CT) register, a database that allows for the centralisation of judicial information on CT proceedings in all EU Member States and also feeds into the overall picture of FTFs, in view of identifying links and coordination needs at judicial level. Eurojust and Europol also cooperated in supporting national authorities in a number of joint actions targeting terrorist propaganda online, recruitment and training of terrorist fighters.

Reference were also made to the FTFs toolbox which is regularly updated by all JHA agencies.

FRA has developed a guide on how to prevent unlawful discriminatory profiling in police and border management operations - which can be relevant in the context of detecting suspicious travellers but also in the broader context of respectful policing and preventing radicalisation. The guide covers general principles of profiling, and also addresses profiling based on the analysis of large-scale data sets, including those regulated by EU law.[5]

Particular emphasis was put on the need for enhanced cooperation, use of the EMPACT platform and interoperability across databases and agencies. In this regard, JHA agencies should strive for synergies, and where possible exploit the available 'big' data on a strategic and operational level in order to discern relevant information and intelligence designed to combat and mitigate the risk from the FTFs phenomenon.

In June, Eurojust organised an annual meeting on counter terrorism. Europol and Frontex participated in the meeting during which also the return of FTFs and their families held in Syria was discussed. One of the conclusions of the meeting was that the evolving threat from terrorism and national policies towards FTFs and their families held in Syria shall be addressed in close cooperation with all competent EU agencies (Eurojust, Europol, Frontex.)

In June, Frontex organised a Workshop on "Countering Terrorism at Airport Border Checks: Traveller Risk Assessment Methods, Tools and Practices". The event was organised in cooperation with the Dutch Royal Mareechaussee, CT-MENA and the Arab Interior Minister Council (AIMC) and with a contribution of Europol. In October, another joint workshop was held by Frontex, AIMC and CT-MENA, in close cooperation with Europol, and focused on cross-border crime, terrorism, irregular migration and border security.

2.2.   Hybrid threats

JHA agencies recalled the multidimensional nature of the concept of hybrid threats, characterised by a number of features: the use of both conventional and unconventional methods (diplomatic, military, economic, technological, etc.); the variety of actors involved including state, state-sponsored and non-state actors; the use of military and non-military means; the difficulty to detect and attribute hybrid threats; the fact that they converged to form a targeted destabilisation strategy.

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[5] FRA (2018), Preventing unlawful profiling today and in the future: a guide, December 2018

The Finnish Presidency had attached particular importance to hybrid threats and a number of institutional developments had taken place, also involving JHA agencies such as the informal COSI meeting on 9 July 2019 and the policy-based exercise and ministerial discussion at the JHA Council on 18-19 July 2019 in Helsinki. For a number of JHA agencies, hybrid threats also had an operational angle as demonstrated during the Parallel and Coordinated Exercises (PACE) Hybrid Exercise 2018.

Of particular interest is the **nexus between hybrid threats and internal security,** which concerns border management, organised crime, terrorism and cybercrime. In this regard, hybrid threats can be considered as a set of operating methods in the fields of cybersecurity, terrorism, organised crime or covert operations. For instance, cross-border flows at the southern EU external borders (people, weapons, information, goods or waste) could be used in a hybrid context with the aim of destabilising an EU Member State or the EU as a whole.

Therefore, the relevance of hybrid threats for internal security actors lies in the possible connections with serious and organised crime, terrorism and cybercrime. Organised crime groups (OCGs) operate internationally to obtain power, influence and financial gains. Similar to hybrid actors, they seek to weaken governance to enable their illegal activities. In doing this they manage to corrupt government officials, computer systems or financial institutions. Terrorists require a similar system to move people, weapons, and financial means and to coordinate their activities. Terrorists require additional ability to spread their message and recruit new members and gain the maximum attention for their actions. The cyber dimension along with the social media allow the use of extensive and inexpensive hybrid threats. Methods range from strategic leaks and propaganda to attacks targeting critical infrastructure.

Countering hybrid threats relates to national security and defence and the maintenance of law and order. Consequently, the primary responsibility for countering hybrid threats lies with EU Member States. **JHA agencies have a supporting and complementary function.**

However, because of their complexity and multidimensional nature, countering hybrid threats requires a **holistic approach** between all relevant instruments and fostering close cooperation between all relevant actors.

The JHA agencies report few initiatives in the area of hybrid threats, with most actions related to cybercrime and disinformation. In this context, FRA emphasised that integrating fundamental rights from the outset of any policy addressing hybrid threats will help make such policies proportionate, sustainable and efficient, as such policies might otherwise be counterproductive. Among others, hybrid threats capitalise on the erosion of trust in public institutions. Continuous efforts to ensure strong fundamental rights architecture in the EU Member States and at the EU level are therefore an important preventive measure.

There is potential for a number of JHA agencies to provide support to EU Member States and the EU in the following areas:

➢ **Cooperation** to ensure a multidisciplinary response such as concrete operational cooperation on technical attributions and investigations.

- ➢ **Analysis & training**: to detect links between various threats and improve the intelligence picture and preparedness.

- ➢ **Early warning**: for monitoring and early detection of signals that might point to hybrid activities and improve information exchange between agencies, EU bodies and Member States.

- ➢ **Technology Watch**: scanning of emerging and evolving technologies for potential impact on internal security linked to hybrid threats.

- ➢ **Coordination**: de-confliction and to avoid duplication.

- ➢ **Combatting illegal content online**, including hatred, violence and terrorist propaganda, while safeguarding freedom of expression and religion.

3.   Reflection on the EU Charter of Fundamental Rights

The 1st December 2019 marked the 10-year anniversary of the EU's Charter of Fundamental Rights (entry into force. The Charter legally binds ''the institutions, bodies, offices *and agencies* of the European Union'' (Article 51 of the Charter) in all contexts. The EU, including its agencies, is also bound by the UN Convention on the Rights of Persons with Disabilities (CRPD). This is the first international legally binding instrument setting minimum standards for rights of people with disabilities.

In September 2018, FRA published its opinion "Challenges and opportunities for the implementation of the Charter of Fundamental Rights."[6] As reported in the FRA opinion, there is relatively high awareness among the JHA agencies about the Charter. However, more proactive policies could be envisaged. On 12 February 2019, the European Parliament called on ''The European Union agencies operating in the sphere of justice and home affairs and/or those whose activities could have an impact on the rights and principles deriving from the Charter to adopt internal fundamental rights strategies and to promote regular fundamental rights and Charter training sessions for their staff at all levels.''[7]

In February 2015, the Heads of EU agencies signed a joint statement to strengthen fundamental rights protection within their respective mandates.[8] In light of the 10 - year anniversary of the EU Charter of Fundamental Rights, the JHA agencies renewed this commitment by endorsing a new joint statement (included as Annex III to the COSI report.)

In the Heads of JHA agencies' joint statement, the JHA agencies strongly affirm their commitment to continuing to protect and promote fundamental rights throughout their work. The agencies agreed to continue to uphold fundamental rights in their working practices such as promoting non-discriminatory working environments, through enhancing gender equality and diversity. They also committed to run awareness raising activities and staff training about the Charter and its entitlements. The JHA agencies will in the future continue to build and enhance their capacity to respect the Charter by sharing and exchanging best practices.

The statement was launched on 12 November 2019, to join the 10-year anniversary of the EU's Fundamental Rights Charter celebrated at the Conference on the EU Charter of Fundamental Rights, hosted by the European Commission, FRA and the Finnish Presidency.

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[6] FRA opinion (2018) on "Challenges and opportunities for the implementation of the Charter of Fundamental Rights'' – pages 14-23
[7] European Parliament resolution of 12 February 2019 on the Implementation of the Charter of Fundamental rights of the European Union in its EU institutional Framework, P8_TA-PROV(2019)0079, (2017/2089 (INI)), para 34.
[8] FRA (2015), Strengthen fundamental rights' protection: All EU Agencies sign joint statement, News release, 24 February 2015.

4. Interagency Cooperation

In this section each agency presents an example of joint interagency cooperation activities carried out over 2019[9].

CEPOL

Since 2017, CEPOL and Frontex have been implementing a joint pilot exchange programme for participants exercising border and coast guard duties within the CEPOL Exchange Programme (CEP). The aim is to apply knowledge relevant to the participant's field of expertise in a multicultural environment within the framework of a practice-related training programme; to disseminate and share best practices at EU level, to contribute to the creation of a European law enforcement culture and to obtain and promote mutual learning and networking. The numbers of participants have been constantly growing since its inception, in 2019 it is expected to have 94 participants.

EUROJUST

Eurojust assisted the Slovak prosecution in their investigation into the murder of journalist Ján Kuciak and his fiancée Martina Kušnírová that took place in February 2018. The investigation advanced greatly when Europol carried out a forensic examination of seized laptops, hard disks and telephones and analysed the extracted data. The legal challenge of using this data as admissible evidence before the court was overcome following Eurojust's advice to involve Europol in the criminal proceedings as an expert organisation. As a result, the Slovak authorities were able to charge a high-profile businessman suspected of ordering the murders and three of his accomplices.

FRA

FRA continues to provide fundamental rights expertise to support the work of the European Commission, the other JHA agencies (Frontex, EASO, Europol, for instance) and national authorities in the hotspots in Greece and Italy. Furthermore, FRA and EASO developed a training video on fundamental rights for EASO deployed staff in the hotspots. FRA in cooperation with EASO provided capacity building activities in Spain to relevant reception authorities with a focus on the identification of vulnerable groups. Finally, FRA and Frontex signed a Service Level Agreement on 25 November 2019 that sets out cooperation in the establishment of Frontex Fundamental Rights Monitors.

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[9] Please note these are selected examples. The full list of activities of joint inter-agency cooperation is presented in the **Multilateral JHA Agencies Scorecard 2019** (Addendum to the COSI report.)

eu-LISA

The Regulation (EU) 2018/1240 establishing the European Travel Information and Authorisation System (ETIAS) tasked eu-LISA with the designing, developing and technical management of the new system. It is the competence of eu-LISA to technically develop the ETIAS Central System, a national uniform interface, secure communication infrastructure, a public website, an app for mobile devices, an email service, a carrier gateway and other technical tools. eu-LISA is cooperating closely with Frontex and Europol in setting up the new large-scale IT system as each of them is entrusted with different tasks in this project. The ETIAS Central Unit and the ETIAS Screening Board will be established within Frontex, which will be responsible for the operationalisation of the Central System.

Europol will be responsible for entering data to the ETIAS watchlist forming part of the ETIAS Central System. Furthermore, Europol will also have access to the ETIAS Central System for the purposes of the prevention, detection and investigation of terrorist offences or of other serious criminal offences.

The three agencies have cooperated with a view to developing the system since 2018 when individual and joint planning and preparation activities started. Since Q4 2018, eu-LISA has been developing functional and technical requirements following the legal basis and the consultations with EU Member State experts, the European Commission, Frontex and Europol. In 2019, the collaboration was formalised when the scope of the eu-LISA EES Advisory Group was extended to cover also ETIAS. The EES-ETIAS Advisory Group met for the first time on 14 March 2019 and held 10 meetings in 2019. Frontex and Europol participate in the Advisory Group on a regular basis. To report on the activities and progress made towards ETIAS, all the three agencies issue progress reports on the development of the system as required by ETIAS Regulation. Last but not least, eu-LISA in cooperation with the Frontex and Europol, has set up an informal coordination forum to ensure alignment between the Agencies on all matters relating to the ETIAS implementation.

FRONTEX

Within the JHA agencies network, Frontex promoted the development of the Network of Situation Centres, operating 24/7 to support operational information exchange and situational awareness.

In 2019, Frontex organised in Lisbon a *Workshop on Real-time situation monitoring: an opportunity for interagency cooperation*, in cooperation with the European Commission, EEAS, Europol, EMCDDA, EFCA, EMSA, ERCC/ECHO, EU SatCen, EUISS, Interpol, UNHCR and the Portuguese National Coordination Centre. The aim of the workshop was to enhance interagency operational cooperation and to share good practices in real-time monitoring. The initiative has provided impetus for enhanced cooperation in a variety of fields relating to situation monitoring including potential support to civil contingency response, contributing to increase synergies and efficiency. Moreover, it suggested an exchange programme with Interpol and Europol Situation Centres that inspired a new infrastructure in the Operational Rooms. The workshop followed the one in 2018 in Athens on *Situational Awareness and Interagency cooperation*, which established interagency cooperation through effective partnership in that matter, improving synergies and reducing duplications.

EUROPOL

The Joint Action Day (JAD) Western Balkans 2019 is an international operation, involving 6,758 law enforcement officers: 6,708 officers on the ground and 50 officers in Europol's Operational Centre.

Law enforcement officers from 30 countries, as well as 8 agencies and international organisations teamed up to tackle the 4 EMPACT priorities: firearms trafficking, illegal immigration, document fraud and drugs trafficking.

Europol coordinated the deployment of mobile offices on the ground on the request of countries to analyse information on-the-spot.

Frontex tackled cross-border crime at the EU external borders and contributed to the operation by performing intensified controls at selected border crossing points and border surveillance activities as part of its ongoing field activities in the region.

EASO

"EASO, Europol and Frontex conducting joint strategic analysis"

In March 2019, EASO, Europol and Frontex published a joint strategic analysis of secondary movements of Third Country nationals in the EU. This product brought together the data and expertise of the three JHA agencies, which allowed for a multidisciplinary reflection on the phenomenon, including for example, modus operandi, and it examined a period of two years (2017 and 2018). The joint report was useful in multiple respects, most notably as an opportunity to verify conclusions drawn from a range of proxy indicators of secondary movements. EASO would have great interest in engaging with Europol and Frontex in more such joint strategic analyses in the coming year, including further updates of the joint analysis on secondary movements.

EIGE

In 2019, EIGE launched a Guide for Risk Assessment and Management of Intimate Partner Violence against Women for Police. This guide provides the police with practical guidelines and recommendations on how to develop and implement risk assessment and risk management approaches. EIGE consulted CEPOL in developing the Guide and cooperated with Europol in disseminating it among EU Member States.

EIGE supported gender mainstreaming in the area of JHA through the production of a handbook to combat sexism in the workplace, to be published in 2020, as well as through its continued work to combat sexual harassment in the workplace.

EMCDDA

In 2019, the EMCDDA and Europol launched the third edition of the joint EMCDDA–Europol EU Drug Markets Report, which is published every three years. This strategic and action-oriented analysis combines data from the EMCDDA's drug monitoring system with Europol's operational intelligence on serious and organised crime and demonstrates the power of such combined analysis products.

The 2019 report covers trends along the supply chain from production and trafficking to distribution and sales. It is accompanied by a series of 13 background papers addressing

information gaps identified in the 2016 edition. Two other JHA agencies contributed to the latest edition of the report: EBCGA and Eurojust.

5.   Good governance

The section below focuses on a number of governance areas which were discussed by the network throughout 2019. The aim is to identify challenges and opportunities to ensure good governance notably through interagency cooperation. In conducting this exercise, the network took into account initiatives carried out at EU Agency Network (EUAN)[10] level, trying to avoid duplication of efforts and ensuring smooth consultation with the EUAN Secretariat.

5.1.   Diversity and inclusion (D&I)

In the meeting of 22 November 2018, the Heads of JHA agencies agreed on the need for the JHA agencies to step up their efforts to mainstream gender in their internal structures, procedures and core activities. Building on their recommendations, Europol selected diversity and inclusion (D&I) as one of the topics. The objective was to identify concrete steps to achieve the recommendations from 2018 while opening the reflection to other aspects of diversity relevant to JHA agencies (e.g. sex; ethnicity; disability; religion or belief; sexual orientation; age.)

A survey was launched by Europol on 13 May 2019 to gather more information on the JHA agencies concerns and approach to D&I; 8 agencies replied.[11] The results showed that while most agencies did reflect on the matter, the scope and approach varied significantly among the agencies. Overall, diversity is still primarily considered from a gender and nationality perspective with less emphasis given to other relevant aspects such as sex, ethnicity; disability; religion or belief; age; sexual orientation.

Those findings were used as basis for discussion during the JHA D&I expert meeting organised by Europol on 5 July 2019 (for further details on the expert meeting, see Annex I to the COSI report HIGHLIGHTS OF THE EXPERT GROUPS.) The discussions led to the adoption of a joint statement on diversity and inclusion. In this document, the JHA agencies committed to:

—   Pursue an inclusive corporate culture and a positive work environment in which every staff member has equal opportunities to develop and contribute to the mission of the Agency.

—   Uphold and strengthen diversity as an organisational value, reflected in our codes of conducts and in the competency frameworks of our staff.

—   Champion equality by ensuring that gender and diversity perspectives are considered when developing and maintaining the governance instruments of the agencies.

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[10] The EU Agencies Network (EUAN) is the network encompassing all the Agencies of the European Union.
[11] CEPOL, EMCDDA, EIGE, eu-LISA, Eurojust, Europol, FRA, Frontex.

— Promote and raise awareness on diversity & inclusion, fundamental rights and gender equality, which includes training our staff members.

— Address discriminatory behaviours, and to strengthen adherence to the value of diversity at every level of the Agency.

— Commit to more systematic exchange on diversity and inclusion among our agencies.

The Agencies shared the view that by implementing the above goals they could build stronger and more cohesive agencies.

5.2.   Risk mamangement

Under the lead of the EU Agencies Network (EUAN) and at the request of Directorate General (DG) Budget and the Secretariat General of the European Commission, the JHA agencies network conducted a risk assessment peer review exercise with the aim to identify the common critical risks across JHA agencies[12]. Following the assessment of corporate risks specific to each JHA agency – as identified in the Single Programming Documents 2019-2021 and 2020-2022 – four (4) cross-agency corporate risks of a critical nature can be shared, namely three (3) threats and one (1) opportunity. These risks can be summarised as follows:

— The implementation of the additional (including *ad hoc*) requests, resulting in changes to the existing business planning, thus reducing the resources (budget and staff) available for initially envisaged objectives;

— Inability to fully meet the operational delivery demand identified in strategic priorities and objectives.

— This, in particular, with regard to the production of deliverables on time, within initially planned resource margins, in view of available and required infrastructure needs, and against compliance requirements as well as business needs specific to the operating environment of the respective agency.

— JHA agencies encounter a multifaceted, complex business continuity risk profile, including based on the ever-evolving technology pace and cyber security threats;

— An opportunity for a profile and awareness boost for JHA agencies, supported by legislative initiatives and resource allocation, in the context of the further development of the Security Union under the new European Commission and the European Parliament and forthcoming

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[12] On 1st October 2019, the results were sent to the European Commission (DG BUDG and SEC GEN) and the Internal Audit Service. The results were also communicated to the Court of Auditors.

MFF 2021-2027, given internal security being perceived as a connecting factor across Member States.

To respond to the identified risk profiles, JHA agencies carry out robust planning and performance management, next to continuous monitoring and management of the organisational demand, and identify appropriate prioritisation to achieve an efficient and effective use of available resources. Furthermore, agencies endeavour to build a strong and positive, complementary approach, while upholding and communicating realistic ambitions and plans with (institutional) stakeholders.

From an overall perspective, the risk assessment peer review exercise has led to a(n)/the:

— Increased level of awareness on risk management across JHA agencies;

— Identification and best practice exchange concerning risk management in JHA agencies;

— Discussion of corporate risks which JHA agencies face in their area of competence, including corresponding mitigating measures;

— Increased contacts among staff responsible for risk assessment in the agencies;

— Risk assessment should not be an isolated exercise, but be integrated and contribute to other important managerial processes, such as planning and reporting.

On the way forward, JHA agencies agreed to continue the dialogue and cooperation to exchange views and best practice in mitigating corporate risks as well as to explore collaboration opportunities with the respective partner Directorate General (DG) in the European Commission. It should be noted that, during the discussion on the methodology, the Performance Development Network (PDN) Chair of the EUAN concluded that the corporate risk management approach and definitions of Europol in the JHA agencies cluster, would serve as the baseline/standard for all agencies (in clusters) to conduct the peer review exercise.

5.3.   Use and role of personal data in the area of JHA

The discussions mainly revolved around the application of provisions of the new data protection regulation for EU Bodies (Regulation 2018/1725), in particular the impact of Chapter IX on the processing of operational data by the JHA agencies. The agencies considered that it would be beneficial for legal certainty if the data processed for fulfilling the purposes of the agencies fall within the material scope of application of Chapter IX. In this context, the harmonisation of the rules would also be beneficial in the cooperation with the data protection supervision, the European Data Protection Supervisor and data protection authorities when applicable.

Some agencies also added, that despite not having to process operational data, they are somehow in touch with personal operational data. In general, then, all agencies need to abide by data protection rules. FRA has published a handbook on data protection law

together with European Data Protection Supervisor (EDPS), the Council of Europe and the European Court of Human Rights (ECHR).[13]

5.4. Public access to documents applications

The agencies held an informative discussion on modi operanda and internal practices regarding the handling of PAD applications (including initial and confirmatory applications). Each agency presented the competent service for processing PAD, indicated the number of staff assigned and the indicative amount of applications received. Also, the methodology regarding the redaction of documents for partial disclosure to the public, internal consultations and approval procedures were discussed. Best practices and common standards were shared for the benefit of all agencies. Focus was also given to the distinction between PAD applications on the one hand and requests for information on the other hand.

5.5. Current and future initiatives regarding whistleblowing

To facilitate effective and efficient whistleblowing arrangements, the JHA agencies agreed to examine existing whistleblowing arrangements and identify best practices. The status of initiatives regarding whistleblowing arrangements in the JHA agencies were discussed during the first JHA agencies meeting under the Europol Chairmanship in February 2019, followed by a survey aimed at taking stock of the current arrangements in place in the JHA agencies.

From the survey and subsequent discussion by the JHA agencies, it emerged that, while all agencies have whistleblowing arrangements in place, there was a limited number of whistleblowing cases.

Nonetheless, a number of best practices on the practical application of the whistleblowing arrangements in the JHA agencies were recognised: a clear commitment from management to define ethical behaviour and a zero tolerance to fraud, with a view to setting the "tone at the top", were identified as essential to building trust among staff, for reporting suspected breaches of professional obligations or improper conduct in a safe environment.

Furthermore, the availability of clear and easily understandable information on whistleblowing arrangements, reporting mechanisms, handling of (personal) data and transparent communication on the outcome of cases were highlighted. This, in turn, should be evaluated regularly by each individual agency, in the format of "lessons learnt" from each individual case to further improve the application of whistleblowing arrangements.

To facilitate the work of the agencies, it is worth noting that the EU Agencies Network established a pool of trained and experienced investigators to support agencies in investigating suspected breaches of professional obligations or improper conduct. This is particularly valuable for agencies that do not have their own capability, where OLAF advises the respective agency to carry out administrative inquiries under own authority.

For future initiatives it would be very useful to share the best practice in:

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[13] Council of Europe , European Court of Human Rights , European Data Protection Supervisor , European Union Agency for Fundamental Rights, Handbook on European Data Protection Law, 2018 Edition, May 2018.

1 / Anti-fraud strategy and its implementation plan

2 / Anti-fraud awareness sessions (inviting the experts from other

Agencies or OLAF)

3 / Common trainings / workshops to share experience in the field of

anti-fraud management.

6. Innovation

The topic of innovation was discussed both at a JHA agencies working level meeting (June 2019) and at the Heads of agencies meeting (November 2019.)

During the June working meeting, the JHA agencies discussed the definition of innovation[14], and the fact that what innovation entails depends on the agencies' mandate, focus and perspective.

Both Europol's European Cyber Crime Centre (EC3) and the SIRIUS platform presented their activities.

All the agencies stressed the importance of working together, coordinating themselves to identify synergies (e.g. through projects) and complementing each other by sharing experiences, knowledge as well as know-how, and benefiting from joint lessons learnt.

All agencies highlighted the importance of exploring what other agencies' networks are already doing in the field of innovation such as the EU Agencies Network on Scientific Advice (EU-ANSA)[15] and link diverse communities to take into consideration various experiences and approaches to innovation in order to be as much resource and cost effective as possible.

All agencies discussed and agreed on the importance to develop an expertise in innovation. Normally innovative solutions are costly, hence the importance for the agencies to have access to appropriate resources.

During the Heads of agencies meeting on 22 November 2019, Europol shared with the other agencies two documents on innovation (i.e. *Europol Innovation Strategy* and a *Proposal for cooperation with external stakeholders to set up a Europol Innovation lab*) that Europol drafted as a follow up of the JHA Council conclusions of 8 October 2019[16]. Europol presented the pillars of the Innovation Strategy, namely technology, data (fuel of everything), work force (investment in staff upskill and reskill) and ethics. The Europol Innovation Lab was described as both an accelerator to address big topics at EU level to establish a network of innovators (from JHA agencies, academia, Member States.)

Europol stressed the need to receive support from all JHA agencies, each according to its expertise.

Europol proposed, a flexible and scalable approach to allow other stakeholders to adapt.

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[14] One definition of innovation which was presented to the agency is the "process of adapting to existing ideas, finding breakthroughs, and ways to look for the most effective recombination of methods in order to improve organisational outputs."(Definition taken from the *Europol Innovation Strategy* of November 2019.)

[15] The EU-ANSA is a sub-network of the EU Agencies Network (EUAN) that allows dialogue and sharing of best practice between senior scientific staff from agencies which have a strong science component in their work.

[16] On that occasion, Home Affairs ministers expressed their overall support for the creation of an innovation lab at Europol which could act as a monitor of new technological developments and drive innovation, including by developing common technological solutions for member states in the field of internal security. Ministers highlighted the need to ensure cooperation of all relevant actors, including other relevant research bodies and EU agencies.

It was also discussed how to enhance cooperation with other existing networks covering similar topics.

Moreover, Europol proposed that the governance of the Europol Innovation Lab would be constituted by JHA agencies, Member States, Commission.

All JHA agencies were in favour of a structured approach, including a joint mapping exercise to combine different foresights and to describe different needs. Data protection (by design) and fundamental rights should be at the core of any initiatives in this sense.

7.   JHA agencies and EU funding mechanisms

The grant rules pose significant challenges to those agencies supporting operational stakeholders (e.g. border authorities, law enforcement). The changes to the financial regulation (Regulation 2018/1046) show a strong interest in regulating all sources of EU funding which is understandable. The reality however is that certain agencies are approached with short deadlines towards the end of a financial year for direct awards from funds underspent in other grants EU programmes. Being forced to include grants in single programming documents (and inform management boards or equivalent entities in advance of accepting) makes planning challenging.

Agencies operate in areas where their operational stakeholders have multiple sources of grants. Agencies seek to use their expertise to support actions well targeted to achieve their mission aims. The **principle of non-cumulative award** (main FR Article 191) provides that "each action may give rise to the award of only one grant from the budget to any one beneficiary, except where otherwise authorised in the relevant basic acts". Horizon 2020 provided a basic act which ensured that compliance with this principle is possible provided that the same **costs** are not funded twice. Providing a legal basis for such interpretation would benefit agencies working in the JHA area.

In addition to awarding grants from agencies own budgets, it happens that stakeholders (e.g. law enforcement) request some agencies to support their applications for other sources of grants. This cannot be done if an agency was active in designing or evaluating a call. Agencies have to be wear only one "hat" in this respect. Where agencies do support applications e.g. because it helps to fulfil their mandate to encourage and participate in MS cooperation in the areas within their mandate, it would benefit agencies if calls would permit at least the inclusion of incurred (non-staff) costs as eligible expenses.

When giving grants, there can be issues of overlap and scaling, if other institutions grant funding to similar areas.

Some of the Agencies face similar challenges when giving grants, such as the limited capacities in Member States to absorb the awarded grants or the need to provide maximum flexibility when financially supporting operations. It is thus proposed that closer cooperation between financial experts in agencies would allow for the exchange of best practice.

8. Priorities 2020

The Heads of the JHA agencies agreed that the network will be chaired by Eurojust in 2020 and by Frontex in 2021. The network activities in 2020 will focus on two thematic areas and ensure business continuity of topics addressed in previous years.

8.1. Victims of trafficking

According to the Council's Strategic Agenda for 2019-2024, protecting citizens and freedoms is a key priority for the Union. The European Council has confirmed that Europe must be a place where people feel free and safe. Eurojust considered it opportune to discuss the topic in the JHA agencies network and to explore possibilities for increasing EU agencies support to victims of human trafficking, including the identification of victims, their protection, and assistance, access to justice, compensation and reparation. Moreover, the exercise is timely considering the Council conclusions of 3 December 2019 on victims' rights.

8.2. Assessment of the JHA agencies network

The JHA agencies network was established in 2010 to increase cooperation and explore synergies in areas of common interest. Ten years later, it is an opportune time to assess the value of the network in enhancing interagency cooperation in implementing the EU priorities in the areas of freedom, security and justice and in aligning activities in areas of common interest and to reflect on the future of JHA agencies network.

Moreover, the exercise is timely considering the new mandates of some of the agencies and the new challenges the agencies are facing.

8.3. Fundamental rights and diversity & inclusion

JHA agencies signed joint statements on the Charter on Fundamental Rights (12 November 2019) and on Diversity and Inclusion (22 November 2019). Following up to the statements, the agencies agreed to a set of measures to step up the application of the Charter and to mainstream gender equality and diversity into the work of the JHA agencies.

8.4. The role of the JHA agencies in the security architecture

In 2019, Europol initiated a joint strategic reflection on the role and position of the JHA agencies in the future development of the EU security architecture. The agencies agreed to continue the work in 2020 taking into account new political and legislative developments deriving from the new European Parliament and European Commission.

8.5.   Other areas of common interest

In accordance with current practice, the network will continue to work to increase cooperation and explore synergies in areas of common interest, in particular through existing JHA experts groups dealing with ICT and cybersecurity, data protection, external relations, training and communication.

Ad hoc topics to be addressed in the course of the year are a training on public access to documents, awareness about and potential synergies with networks supported by Eurojust, the involvement of the EPPO in the network activities, developments regarding interoperability and, in cooperation with the European Commission and the EEAS, and the external relations of the agencies.

9.   Conclusions from the Executive Directors

The number of different areas of cooperation and subjects relevant to JHA agencies we touched upon during the year, clearly demonstrate the importance of the agencies in the EU area of justice, security and freedom.

While each agency is striving to deliver results according to its respective mandate, there are several horizontal challenges, which can be addressed only through interagency cooperation.

This was confirmed during the Heads of JHA agencies meeting on 22 November 2019 which strongly focused on the implementation of the Strategic Agenda 2019 – 2024.

The priorities of the European Council of June 2019 are closely interlinked and will require continued efforts from all of the JHA agencies.

Fully functioning migration policy and the reform of the EU asylum system will not be achieved without the effective control of external borders, which is also crucial for the proper functioning of the Schengen Area.

The JHA agencies' work helps to reassure EU citizens that free movement is not a threat to their safety and security. We work to make sure EU citizens feel safe by continuing to prevent terrorist plots, to seize drugs and firearms, and to fight the trafficking of human beings.

Exploiting the full potential of EU information systems is needed to increase the JHA agencies' effectiveness in supporting EU Member States authorities.

JHA agencies' robust data protection regime needs to be applied. It is a strength for the agencies. It was strongly stressed throughout 2019 that it is important for Data Protection Officers from the JHA agencies to continue with their regular meetings. They can coordinate their work on interoperability and strive to ensure the highest level of data protection.

The agencies are part of the security chain and represent the added value of the EU:

—   when supporting EU Member States protecting external borders or investigating complex cybercrime operations;

—   when providing front line support to EU Member States in processing asylum applications;

—   when helping EU Member States to fully respect fundamental rights and protecting vulnerable groups;

—   when enhancing law enforcement capacities through training;

—   when contributing to the prosecution of criminals and to ensure admissibility of evidence;

—   when providing evidence to inform better policy and responses to drug problems.

JHA agencies ensure that maintaining the area of Freedom, Security and Justice is supported by the state-of-the-art information systems.

Respect for fundamental rights will contribute to successfully addressing the JHA agencies' priorities. JHA agencies also ensure that respect of fundamental rights remains a guiding principle when performing their tasks.

At the same time, JHA agencies are committed to gender equality, which has been demonstrated at several occasions, not only by political proclamations but also in practice.

JHA agencies should reflect further on how to communicate their achievements to the public. It was commonly agreed this point should continue to be kept on the agenda of the network and the agencies should join forces to present the results of the JHA agencies' work.

Adequate resourcing for JHA agencies was another topic discussed during this year.

While the JHA agencies share concerns about responding to crises, or sometimes priorities defined by Presidencies, the agencies should also jointly reflect, where they could better implement shared objectives and pooling resources when possible.

A more coherent approach could be followed, in particular, in capacity building projects in third countries, where agencies could be consulted earlier by the European Commission.

Finding synergies should be also a leading principle in developing and using new technologies.

The goal is to pool resources at EU level to create innovative policing solutions for EU law enforcement and JHA actors. This way, instead of investing in 27 different solutions, JHA agencies invest and work together at EU level to create one solution that benefits all JHA actors across the EU. Interagency cooperation here is be crucial.

Heads of JHA agencies – meeting at Europol, 22 Novemnber 2019

10. Annexes

ANNEX I – HIGHLIGHTS OF THE EXPERT GROUPS

JHA Expert Group on training

The meeting gathered experts from all the JHA agencies and the European Security and Defence College (ESDC).

The discussions revolved around four main topics:

- EU Strategic Training Needs Analysis (prioritising the Law Enforcement training needs of the Member States.) The discussion aimed at the identification of the capability gaps, the training possibilities and all possible available channels for cooperation on 5 thematic areas (cybercrime, illegal migration, drugs, terrorism, Joint Investigation Teams - JITs);

- Finding synergies between the law enforcement and judicial training. DG JUST stressed the importance of guaranteeing a larger involvement of the judicial authorities of the Member States in all the training activities of CEPOL;

- Emerging training needs, in particular focusing on:

  a. Preparing JHA agencies to cooperate with the European Public Prosecutors Office (EPPO);

  b. Interoperability**.** It was decided that an assessment of the MS training needs for implementation and use of the interoperability architecture at national level will be coordinated by eu-LISA. The contact points in respective Agencies will have to be identified in 2019 and more in-depth cooperation would start in 2020. A common curriculum with a focus on common training topics in the field of interoperability would be developed by the Agencies.

- Necessity and future of the JHA Training Matrix.

JHA Expert Group on Diversity and Inclusion

The meeting gathered representatives from eight JHA agencies[17]. The discussion provided a comprehensive overview of the approaches and focused on concrete steps to foster diversity and inclusion in the internal structures, procedures and core activities of the Agencies. The expert group discussions resulted in a list of six recommendations to the Heads of JHA agencies.

The recommendations notably stress:

- Broadening the reflexion on Diversity & Inclusion in the JHA agencies in line with the Diversity & Inclusion strategy for the commission staff[18];

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[17] CEPOL, EASO, EIGE, eu-LISA, EUROJUST, EUROPOL, FRA, FRONTEX.
[18] C (2017)5300 final – A better workplace for all: from equal opportunities towards diversity and inclusion.

— Encouraging more systematic exchanges among the agencies on Diversity & Inclusion matters to balance the lack of resources and avoid duplication of efforts. This could be done, for example, by creating an informal working group and online platform for the exchange of material and best practices, by organising joint activities (e.g. developing joint toolkits and handbooks; promoting joint campaigns to mark international diversity days; facilitating awareness sessions across agencies.)

As a follow-up action, Europol further coordinated the preparation of a Joint Statement of the Heads of JHA agencies on Diversity and Inclusion, which was endorsed during the Heads of Agencies meeting of 22 November 2019 (included as Annex IV to the COSI report.)

Following the meeting, eu-LISA set up a platform for information exchange among the experts on diversity and inclusion in JHA agencies.

JHA Expert Group on Communication

The meeting gathered representatives of seven JHA agencies[19].

The discussions mainly focused on the impact that Artificial intelligence (AI) and machine learning (ML) algorithms have on journalism, broadly speaking, and on the way corporate communications departments will have to work when proactively promoting corporate content to media or when reactively replying to media requests.

The objective of the workshop was to obtain clarity on how algorithms are rewriting the media, and where the potential wins and losses are for journalism, corporate communications and society.

On this basis, the group concluded that corporate communications departments have to prepare for the changing way media and news organisations work. The use of AI will change the quantity and quality of journalistic work and output. Journalism is the business or practice of regularly producing and disseminating information about contemporary affairs of public interest and importance for society but filtered through a particular value system. According to this definition, AI can do journalism, but AI cannot work like an experienced journalist, connecting the dots of stories and putting different and abstract aspects of a story together.

In the 21st century, corporate communications departments will therefore face:

— Increased competition of articles written by AI and pushed-out by newsbots, changing the news cycle, making it more difficult to get media coverage;

— Better informed and more detailed media enquiries from well-organised investigative journalist groups, using data mining to paint a stories full picture;

[19] CEPOL, EASO, EIGE, eu-LISA, EUROJUST, EUROPOL and FRA

——— The opportunity to use AI to generate own press material, such as news items and press releases that rely on data sets. This will free press officers to do what they are good at: spinning a story, networking with journalists and influencing the brand reputation of the organisation in the media.

JHA Data Protection Officers Network

The appointed Data Protection Officers (DPOs) of the JHA agencies met on the 5th July and 27th September 2019.

The meetings allowed the DPOs to closely cooperate on matters related to their tasks in the agencies to ensure "privacy on the ground." Regarding the current challenges for JHA agencies, the DPOs discussed the construction of data subject rights aspects and its implementation within the interoperability framework and the transfer of personal data to Third States and International Organisations. With regard to international data transfers, the DPO highlighted the importance of concluding adequacy decisions and international agreements with Third States and International organisations. The effective application of provisions of the new data protection regulation for EU Bodies (Regulation 2018/1725) was discussed in both meetings, in particular the impact of Chapter IX on the processing of operational data by the JHA agencies. The DPOs considered that it would be beneficial for legal certainty if the data processed for fulfilling the purposes of the Agencies all fall within the material scope of application of Chapter IX. In this context the JHA DPOs considered the harmonisation of the rules also as beneficial to the cooperation with data protection supervision actors, the European Data Protection Supervisor and national data protection authorities when applicable.

With regard to the specific assurance role of the DPO in JHA agencies, the meetings elaborated on the key requirements for the functioning of the DPO Office. Amongst them is the necessity to maintain the required knowledge and expertise of the appointed DPO and the availability of resources in the agency for the DPO to fulfil the statutory tasks. Also two other key aspects for a fully functioning DPO required timely consultation and involvement of the DPO and the protection of the independence of the function.

Further, both meetings served the opportunity to exchange expertise and best practices for the work of the DPO in order to add value to the processing operations on personal data and support the controllers in all JHA agencies.

JHA Expert group on ICT and Cybersecurity

The meeting gathered experts from seven JHA agencies[20].

The following items were eventually discussed:

——— **Implementation of Cloud Native Applications:** Europol shared its experience with the recent transition from Monolithic Architectures to Microservices Architecture and the Docker-based container implementation for cloud native applications. Moreover, Europol

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[20] CEPOL (via video conference), EASO, Eurojust, Europol, Frontex, FRA, eu-LISA

elaborated on the needs for Cloud Native Security Solutions and the Proof of Concepts of certain solutions that has been exploring recently. The experience and lessons learnt will be shared with every interested JHA Agency that is looking into adopting similar architectures.

— **Organisation of Information & ICT Security functions in JHA agencies:** The participants discussed how the Information & ICT Security functions are organised, positioned and staffed in each JHA Agency. Most importantly, all JHA agencies concurred that it particularly hard to recruit cybersecurity experts and the availability of satisfactory applicants in relevant selection procedures is very scarce.

— **Cloud Adoption amongst JHA agencies – Constraints and Challenges:** Europol presented the results of the Cloud Adoption survey that was performed amongst JHA agencies.

— **Security Monitoring and Incident Data Sharing:** Europol presented the recently implemented evolution of its Security Operations Centre capability, the scenarios that were explored, the key considerations for decision making and the expected benefits of the new setup. The participants further discussed their approach with regard to Security Monitoring and Incident Data Sharing, with some of the JHA agencies make use of the CERT-EU services for outsourcing their security monitoring and digital forensic services.

— **(Cyber) Crisis Management Exercises:** Europol shared its experience with organising Crisis Management Exercises and elaborated on the format, challenges and success factors of such exercises. eu-LISA also shared key points of their recently organised exercise with the cooperation of ENISA.

— **Security Awareness Initiatives:** The participants discussed their approach in security awareness initiatives and the need for innovative and engaging activities in order to effectively communicate security matters at all levels.

ANNEX II – INFOGRAPHIC ON COOPERATION INSTRUMENTS WITH THIRD COUNTRIES[21]

[21] In the case of Frontex, Iceland, Norway, Switzerland and Liechtenstein are not considered as third countries as they are associated with the implementation, application and development to the Schengen acquis.

ANNEX III – JOINT STATEMENT ON THE CHARTER OF FUNDAMENTAL RIGHTS

Heads of JHA Agencies' statement on the occasion of the 10th Anniversary of the Charter of Fundamental Rights of the European Union

Acknowledging that the Charter of Fundamental Rights of the European Union ('the Charter') entered into force 10 years ago on 1 December 2009 and sets out the full range of civil, political, economic and social rights of all people in the EU;

Fully aware that, according to Article 51, the Charter legally binds all institutions, bodies, offices and agencies of the European Union and that the Justice and Home Affairs Agencies have a key role in upholding and promoting rights and principles enshrined in the Charter;

Recalling the 2015 joint statement, whereby all EU agencies restated their commitment to fundamental rights in their internal and external activities;

The Justice and Home Affairs Agencies are committed to continue their ongoing efforts to:

1 / contribute to the protection of fundamental rights as they are an integral part of their work;

2 / promote and raise awareness regarding fundamental rights as enshrined in EU law, especially in the Charter, including by providing effective training to agency staff;

3 / support fundamental rights in agency processes, including gender equality and diversity in the workplace (Articles 20, 21, 22, 23 and 26 of the Charter in particular);

4 / ensure compliance with the Charter in all activities;

5 / exchange, within the network of Justice and Home Affairs Agencies, practices regarding the implementation of the Charter in the Justice and Home Affairs area on an annual basis.

Done in Brussels, 12 November 2019

Krum Garkov

Executive Director of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Nina Gregori

Executive Director of the European Asylum Office (EASO)

Fabrice Leggeri

Executive Director of the European Border and Coast Guard Agency (FRONTEX)

Virginija Langbakk

Director of the European Institute for Gender Equality (EIGE)

Alexis Goosdeel

Director of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

Michael O'Flaherty

Director of the European Union Agency for Fundamental Rights (FRA)

Catherine De Bolle

Executive Director of the European Union Agency for Law Enforcement Cooperation (Europol)

Detlef Schröder

Executive Director of the European Union Agency for Law Enforcement Training (CEPOL)

Ladislav Hamran

President of the European Union Judicial Cooperation Unit (EUROJUST)

ANNEX IV – JOINT STATEMENT ON DIVERSITY & INCLUSION

JOINT STATEMENT OF THE HEADS OF JUSTICE AND HOME AFFAIRS AGENCIES ON DIVERSITY AND INCLUSION

Acknowledging the diverse nature of our workforces and the importance of ensuring the well-being of all our staff members;

Recognising the need to take into account the particular situation and specific concerns of different persons;

Taking note of the pro-active approach set by the EU Commission in its Diversity and Inclusion Charter published in July 2017;

Recalling the joint statement adopted on the occasion of the 10th Anniversary of the Charter of Fundamental Rights of the European Union;

Recalling the joint statement on Zero Tolerance towards sexual harassment adopted in March 2018;

Building on the recommendations formulated by the JHA Agency Network Expert Group on Diversity and Inclusion in their meeting of 5 July 2019;

The Justice and Home Affairs Agencies agree to:

— Pursue an inclusive corporate culture and a positive work environment in which every staff member has equal opportunities to develop and contribute to the mission of the Agency.

— Uphold and strengthen diversity as an organisational value, reflected in Agencies' codes of conduct and leveraged in competency frameworks to augment inclusion, engagement, cohesion and organisational delivery.

— Champion equality by ensuring that gender and diversity perspectives are considered when developing and maintaining the governance instruments of the Agencies such as internal policies and procedures.

— Promote and raise awareness on diversity and inclusion, fundamental rights and gender equality, including by providing effective training to Agency staff.

—   Address discriminatory behaviours to strengthen adherence to the value of diversity at every level of the Agency.

—   Encourage more systematic exchange on diversity and inclusion matters among the JHA Agencies.

Done in The Hague, 22 November 2019

Krum Garkov

Executive Director of the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA)

Nina Gregori

Executive Director of the European Asylum Office (EASO)

Fabrice Leggeri

Executive Director of the European Border and Coast Guard Agency (FRONTEX)

Virginija Langbakk

Director of the European Institute for Gender Equality (EIGE)

Alexis Goosdeel

Director of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA)

Michael O'Flaherty

Director of the European Union Agency for Fundamental Rights (FRA)

Catherine De Bolle

Executive Director of the European Union Agency for Law Enforcement Cooperation (Europol)

Detlef Schröder

Executive Director of the European Union Agency for Law Enforcement Training (CEPOL)

Ladislav Hamran

President of the European Union Judicial Cooperation Unit (EUROJUST)

ANNEX V – INFOGRAPHIC ON EU COM AND EU AGENCIES INVOLVEMENT IN EMPACT OAPs 2019

The priorities are abbreviated as follows:

CAIS: Cybercrime Attacks Information Systems
CCH: Cannabis, Cocaine and Heroin
CFMLAR: Criminal Finances, Money Laundering and Asset Recovery
CSE: Child Sexual Exploitation
ENVICR.: Environmental Crime
EXCISE: Excise fraud
FIA: Firearms
FII: Facilitated Illegal Immigration
MTIC: MTIC fraud
NCPF: Non-cash Payment Fraud
OPC: Organised Property Crime
SYD: New Psychoactive Substances and Synthetic drugs
THB: Trafficking of Human Beings.
Total number of actions in the 2019 OAPs: 244

EUROPOL in the OAPs 2019 (# of actions) - Source: OAPs 2019

Priority	# of actions
	221
FII	24
	21
OPC	19
	19
EnviC.	19
	19
SYD	18
	18
CSE	15
	14
Excise	14
	13
MTIC	8

EUROPOL - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER[AC L]/CO-LEADER[CO-L])
SOURCE:OAPS 2019

	Total # actions	Ac L	Co-L
	221	28	78

EMPACT

FRONTEX in the OAPs 2019
(# of actions) - Source OAPs 2019

FRONTEX
EUROPEAN BORDER AND COAST GUARD AGENCY

Category	Value
Total # actions	68
FII	22
THB	8
EnviC.	8
FIA	8
CCH	7
OPC	6
Excise	5
SYD	2
NCPF	2
MTIC	0
CSE	0
CFMLR	0
CAIS	0

FRONTEX - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER [AC L] /CO-LEADE [CO-L])
SOURCE:OAPS 2019

Total # actions	AC L	Co -L
68	10	16

EUROJUST in the OAPs 2019
(# of actions) - Source: OAPs 2019

EMPACT

EUROJUST

Category	Value
Total...	93
FII	20
NCPF	13
CAIS	13
THB	8
SYD	8
CCH	8
CSE	5
FIA	4
EnviC.	4
MTIC	3
Excise	3
CFMLR	3
OPC	1

EUROJUST - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER [AC L]/CO-LEADER [CO-L])
SOURCE:OAPS 2019

	Value
Total...	93
Ac L	0
Co-L	9

CEPOL in the OAPs 2019
(# of actions) - Source OAPs 2019

Category	Value
Total...	56
FIA	9
CCH	7
SYD	6
THB	6
OPC	5
NCPF	5
CAIS	4
FII	4
CFMLR	3
EnviC.	2
Excise	2
MTIC	2
CSE	1

CEPOL - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER [AC L] /CO-LEADE [CO-L])
SOURCE:OAPS 2019

	Value
Total # actions	56
Ac L	14
Co-L	0

EMPACT

EMCDDA in the OAPs 2019
(# of actions) - Source OAPs 2019

emcdda

EMCDDA in the OAPs 2019 (# of actions) - Source OAPs 2019

Category	Value
Total # actions	19
CCH	12
SYD	7
THB	0
OPC	0
NCPF	0
MTIC	0
FII	0
FIA	0
Excise	0
EnviC.	0
CSE	0
CFMLR	0
CAIS	0

EMCDDA - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER [AC L] /CO-LEADER [CO-L]) SOURCE:OAPS 2019

	Value
Total # actions	19
Ac-L	2
Co-L	4

EMPACT — eu-LISA in the OAPs 2019 (# of actions) - Source OAPs 2019

Category	# of actions
Total #...	7
FII	4
CAIS	2
FIA	1
THB	0
SYD	0
OPC	0
NCPF	0
MTIC	0
Excise	0
EnviC.	0
CSE	0
CFMLR	0
CCH	0

EU-LISA - TOTAL INVOLVEMENT AND LEADING ROLE (ACTION LEADER [AC L] /CO-LEADER [CO-L])
SOURCE:OAPS 2019

	Total # actions	Ac L.	Co-L.
value	7	1	0