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From strategic guidelines to actions: the contribution of the JHA Agencies to the practical development of the area of freedom, security and justice in the EU

The role of the JHA Agencies in the development of the area of freedom, security and justice

Ensuring freedom, security and justice is a key objective of the European Union. The Justice and Home Affairs (JHA) field has experienced a profound transformation in the EU in the last two decades. Much has been done by the EU to safeguard an open and secure Europe, anchored in the respect and promotion of fundamental rights and based on a determination to serve and protect European citizens. Internal border controls in the Schengen area have been removed and the gradual introduction of an integrated management system for external borders has been promoted. A Common European Asylum System has been established while a Global Approach to Migration and Mobility has been developed. A more coordinated approach to police and judicial cooperation has been enhanced by removing obstacles to law enforcement cooperation between Member States and creating new instruments, such as the European Cybercrime Centre (EC3), the European Arrest Warrant and Joint investigation Teams. An Internal Security Strategy, an EU strategy on drugs, as well as the EU policy cycle on serious and organised crime have been adopted. Large-scale IT systems such as the second generation of the Schengen Information System (SIS II), the Visa Information System (VIS) and EURODAC act both as compensatory measures for the gradual removal of controls at EU's external borders and as support tools for Member States, facilitating timely exchange of information on visa applications and asylum procedures. Additionally, measures have been implemented to facilitate access to justice and to promote full respect for fundamental rights. Finally, the EU has developed financial support tools in the JHA area, aimed at assisting Member States and providing additional opportunities for cooperation in order to achieve common goals.

In this context, the family of JHA Agencies (CEPOL, EASO, EIGE, EMCDDA, eu-LISA, Eurojust, Europol, FRA, and Frontex) have, in line with their respective mandates, played a key operational and expert role in the implementation of EU priorities and objectives in this area. JHA Agencies have proved their added value by supporting the coherent and effective implementation of the EU acquis. They have helped to build a common European culture based on mutual trust and close practical cooperation. They have also provided operational and technical support to the Member States and the EU Institutions and delivered evidence based input to the policy and decision-making process. They will contribute further to efficiency and innovation by enhancing the integrated approach with regard to the use of technologies in this field.

At the end of 2014, the Stockholm Programme and its Action Plan will come to an end. In this regard, the European Commission adopted two Communications on justice and home affairs entitled, respectively, *The EU Justice Agenda for 2020 – Strengthening Trust, Mobility and Growth within the Union* and *An Open and Secure Europe: Making it Happen*. The European Council, subsequently in June 2014, adopted the strategic guidelines on the future development of the JHA area.

Through the exercise of their mandates, the JHA Agencies can play a key role in fulfilling these objectives effectively. In the coming years, they will continue to play a vital role as relevant operational and scientific actors, contributing to the concrete implementation of the existing EU acquis and objectives, as well as providing evidence-based input to new legal and operational initiatives in the area of freedom, security and justice, thus facilitating the eventual implementation thereof.

In this sense, in their full awareness of the fact that all the dimensions of a Europe that protects and offers effective rights to people are interlinked and also that synergies with the EU Institutions and between themselves bring added value at the practical level, the Heads of JHA Agencies have jointly identified key elements for their contribution to the practical implementation of the EU priorities in the years ahead.



In line with the priorities set at EU level and their respective mandate, the JHA Agencies will contribute to the operational implementation of the EU acquis and objectives in the fields of migration, asylum and border management, organised crime, drug trafficking, terrorism and other forms of crime; justice, and the external dimension related to those fields.

1. Enhancing effective asylum, migration and border management

A Common European Asylum System (CEAS) in practice

The second phase of the legislation of the Common European Asylum System (CEAS) adopted in 2011 and 2013 provides better access to asylum for those in need of protection, higher quality of reception conditions and faster, more reliable asylum decisions. In this regard, the effective transposition and coherent implementation of this legislation are EU key priorities in the coming years. EASO will continue to be a key operational actor aiming at high common standards in practices and stronger cooperation, creating a level playing field whereby similar asylum cases are treated and decided in a similar way across the Union.

Converging practices and common training will enhance mutual trust. To this end, in full compliance with its mandate, EASO will continue developing a common training programme adapted to the new asylum acquis. The EASO programme has already provided training for more than 5,000 asylum and reception officers in the EU between 2012 and 2014. In addition, EASO will make special efforts to promote practical cooperation on Country of Origin Information (COI). EASO will create specialist networks on key countries of origin and will also produce common COI reports, following in the footsteps of its own example of published reports on Afghanistan, Somalia or Chechnya. EASO will further promote the quality of the asylum procedures by developing practical tools for elements, such as those already completed in the field of age assessment of unaccompanied children, interview techniques or online COI research. FRA will also build on the experience in the development of tools for practitioners such as the published Handbooks on European law relating to asylum, borders and migration. Finally, eu-LISA has agreed to contribute to the training of EASO with regard to the use and technical functioning of Eurodac.

The priorities set by the EU Institutions have underlined that in the field of asylum, responsibility and solidarity go hand in hand. In this sense, EASO will continue providing its operational support and assistance to Member States' asylum systems with identified specific needs, building on the experiences accumulated from current support plans in Bulgaria, Cyprus, Greece and Italy. EASO, Frontex and eu-LISA will continue coordinating their operational activities in the Member States, including those that support the registration, identification and referral of persons in need of protection.

The EU Institutions determined that EASO should set up projects on joint processing of asylum applications in Member States, facilitating quicker and more efficient processing of asylum applications, in full respect of the EU and the applicable national legal framework. EASO will therefore launch pilot projects on joint processing in the areas of asylum applications, vulnerability assessment and asylum determination.

A mechanism for early warning, preparedness and crisis management is now established within the Dublin Regulation. On one hand, EASO is called to provide information on the situation of asylum in the Member States and, on the other, EASO will be an instrument for providing operational support to Member States with specific needs in their asylum systems, including through contingency planning.

EASO will strengthen its Early Warning and Preparedness System, which provides trends analysis reports to Member States on a monthly, quarterly and annual basis, examining the situation of asylum in the EU. In addition, EASO will produce ad-hoc analysis regarding the consequences on asylum in the EU deriving from situations in key countries of origin, building on its experience in the cases of Ukraine and Eritrea.

Effective integrated border management and common visa policy

The creation of the Schengen area, allowing people to travel without being subject to internal border controls, is considered a core part of the European construction. The EU Institutions have concluded that it is vital to ensure the correct application of the Schengen acquis. The agencies will contribute to the implementation of the new Schengen evaluation mechanism, which is also relying on the assessments of the various EU JHA Agencies, and training to Schengen evaluators will continue to be provided by CEPOL, eu-LISA and Frontex with the support of FRA under the new Schengen evaluation mechanism. The EU institutions have stressed that particular attention must be paid to the smooth operation of the SIS II, in order to safeguard security and the free movement of persons. The efficient management of the SIS II and of the VIS is a core responsibility of eu-LISA.

The increasing numbers of persons travelling to the EU also require efficient management of the EU's common external borders to ensure strong protection, whilst ensuring smooth access to bona fide travellers. In addition, assistance should be given to Member States facing exceptional migratory pressure. Frontex, as an instrument of European solidarity in the area of border management, is an essential tool of operational assistance by supporting the Member States involved in joint operations. The recently established Operation Triton in the Mediterranean constitutes yet another example of the operational added value of Frontex.

The development of the European Border Surveillance System (Eurosur) implemented by Frontex will contribute to the management of the external borders, to fight against cross-border crime and to help saving lives by facilitating near to real-time information exchange, thereby increasing operational response capacity. In addition, on a regular basis, Frontex provides risk analysis of the situation at the external borders. Furthermore, FRA will continue collecting evidence on the situation of fundamental rights at the EU external borders and providing operational expertise to relevant actors.

Frontex and eu-LISA are crucial and complementary actors in implementing the concept of Integrated Border Management in a cost efficient way, whilst ensuring the development of the most efficient and cost-effective IT solutions that take into account the needs of end-users and the operational situation at EU's external borders. To this end, the implementation of the pilot phase on smart borders by eu-LISA, entrusted to it by the Commission, will contribute to the testing of technical solutions for the Entry-Exit System (EES) and the Registered Travellers Programme (RTP).

Another EU priority aims at modernising the common visa policy by facilitating legitimate travel while maintaining a high level of security. To achieve that goal, the EU has set the target to complete, by next summer, the worldwide roll-out of the VIS, the operational management of which falls under the responsibility of eu-LISA. The latter's role in managing the system and ensuring it has sufficient capacity shall be vital. The VIS roll-out will be supported by parallel projects aimed at increasing the overall capacity of both the VIS and the Biometric Matching System, linking biometric identifiers to individual persons, thereby helping to establish and verify their identity. At the same time, EASO and Frontex may be requested to provide ad-hoc assessments on the potential impact of lifting requirements off migration and asylum systems.

A coordinated approach to return

The guidelines highlight that, together with maximising the benefits of well-managed migration and integration, it is essential to continue enforcing a return policy based on common standards that ensure a credible and humane return that respects fundamental rights and the dignity of each individual.

The joint return operations coordinated by Frontex and the application of its Code of Conduct related to these operations, which has been developed in close cooperation with the Frontex Consultative Forum with the participation of EASO and FRA, provide EU added value in this field at the practical level. Moreover, Frontex and FRA are supporting the Commission in the drawing up of the "Return Handbook".

2. Protecting citizens against organised crime, drug trafficking, terrorism and other forms of crime

Reviewed Internal Security Strategy

In accordance with the priorities laid down by the EU, it is essential to guarantee a genuine area of security for European citizens through operational police and judicial cooperation and by preventing and combating serious and organised crime, including human trafficking and smuggling, as well as terrorism.

The review of the Internal Security Strategy will offer the possibility of enhancing the European area of security, ensuring protection and promotion of fundamental rights whilst addressing security concerns. The JHA Agencies will provide evidence-based input to the review of the Internal Security Strategy.

Disruption of international crime networks

The disruption of criminal networks with a cross-border dimension is a priority for the EU in the coming years. Organised crime is increasingly flexible and is developing its activities within and beyond Europe's borders. The guidelines conclude that the EU should continue to adapt and strengthen its response to those threats, coordinating its action within the EU and beyond, also by ensuring cooperation with third countries involved in cases of serious crime. The JHA Agencies will play an important role in supporting operational cooperation focusing on priorities agreed at EU level within the EU Policy Cycle for Serious and Organised Crime. The priorities of the EU Policy Cycle are being addressed by Operational Action Plans (OAPs) in the European Multidisciplinary Platform Against Criminal Threats (EMPACT) with the active involvement of the JHA Agencies.

The JHA Agencies will provide evidence-based input to the EU policy cycle. For instance, Europol will elaborate the Serious and Organised Crime Threat Assessment (SOCTA), with contributions from Eurojust and other agencies, as well as other related threat assessments. Frontex will contribute with regular situational awareness and risk analysis. As regards trafficking in illicit drugs, EMCDDA, in cooperation with Europol, will jointly produce the reports and threat assessments, such as the second *EU Drug Markets Report: a strategic analysis* and the Threat Assessment report on Methamphetamine. EMCDDA will also continue its work on improving the monitoring of drug supply in the EU, together with Europol, Eurojust and other relevant partners at EU level, in view of developing more effective policies in the field of drug supply. Following up on the Eurojust strategic project on drug trafficking, further consideration is to be given to the drafting of joint reports by Eurojust, Europol and EMCDDA.

JHA Agencies are involved in the OAP as co-drivers or participants in the respective priority crime areas. They also lead or participate jointly in concrete operational actions where synergy between their performances is exercised in practice.

In order to build mutual trust, law enforcement and judicial authorities need to work together to exchange information and undergo training together.

An example of the added value of working together with the assistance of the JHA Agencies are the operations coordinated by Europol, such as Operation Archimedes, the biggest ever coordinated international law enforcement operation targeting serious and organised crime in the EU, resulting in 1150 persons arrested, 1.9 tons of cannabis seized, 10 thousand irregular migrants apprehended and 170 illegal migration facilitators arrested. This involved actions at hundreds of locations. Eurojust and Frontex also participated in the Operation, the latter by furnishing information on almost all its ongoing Joint Operations.

Other good examples are the Joint Investigation Teams (JITs) supported by Eurojust and Europol, as well as Eurojust's coordination meetings to develop common investigative and prosecutorial strategies (for instance simultaneous arrests and searches) with the support of Europol.

The JHA Agencies contribute on an operational basis to cross-border information exchanges. Greater integration and interoperability of systems around a single central hub is being promoted, building on the European Information Exchange Model (EXIM). To promote standard data exchange and interconnection between dispersed law enforcement systems, the United Message Format (UMF)

project has been restarted under Europol auspices. Moreover, JHA Agencies have continued with the management, maintenance and development of critical information systems in the area of freedom, security and justice, such as SIS II, VIS, Eurodac, the Europol Information System or the EMCDDA and Europol EU Early Warning System on new psychoactive substances.

The collection, storage, usage and exchange of this information need to fully comply with fundamental rights, including the right to privacy and data protection. To this end, FRA is developing a project on fundamental rights implications of biometric data in the large scale EU IT-systems in the areas of borders, visa and asylum. FRA will continue updating the Handbook on the European data protection legislation.

Trafficking in human beings (THB) is a growing phenomenon. The EU Agencies signed the Joint Statement “Together against Trafficking in Human Beings” and have been contributing to the implementation of the EU Strategy 2012-2016 aimed at eradicating this crime, under the coordination of the EU Anti-Trafficking Coordinator. Addressing smuggling and THB more forcefully, focusing on key countries and routes, has been identified as a priority. The JHA Agencies, in close cooperation with Member States, shall perform more targeted actions against organised criminal groups facilitating human smuggling and trafficking. In this direction, CEPOL will continue promoting its common curriculum on THB, whereas Frontex will make use of the Handbook on risk profiles in relation to THB and EASO its training modules regarding vulnerable persons. Eurojust will organise another Strategic Meeting on THB in April 2015, aimed at presenting the mid-term findings in the implementation of the Eurojust action plan against THB and addressing the main difficulties in prosecuting THB cases. In order to gather additional information on the modus operandi of networks operated by smugglers or traffickers, EASO, together with Eurojust, Europol and Frontex, shall complete the implementation of the pilot project on facilitators.

In line with the guidelines, which call for further development of a comprehensive approach to cybersecurity and cybercrime, the EC3 was set up by the European Commission within Europol, supported by CEPOL and Eurojust, with a view to increasing the operational capacity to fight cybercrime. The Centre, to which a representative of Eurojust is seconded, has already demonstrated its value and will continue its support with regard to investigations undertaken by Member States regarding a broad set of crimes, ranging from fraud to online child sexual abuse.

Prevention of terrorism and addressing radicalisation and recruitment

The prevention of radicalisation and extremism and action to address the phenomenon of foreign fighters have been emphasised by the EU as priorities in this area, as has the effective use of existing instruments for EU-wide alerts, such as SIS II.

The priorities set by the EU Institutions highlight the importance of a coordinated approach among Member States, EU institutions and JHA Agencies, third countries and international organisations in the fight against this form of terrorism and to counteract its sophisticated recruiting, facilitating and financing networks, as well as the threat posed by returnees. Eurojust has been working on the issue of foreign fighters by actively collecting and analysing information, including in the context of tactical meetings, concerning the relevant legal framework, policies and measures adopted by the Member States and selected third countries on this issue. In this context, experience related to relevant investigations and trials on the phenomenon has been exchanged. The two latest issues of Eurojust’s quarterly “Terrorism Convictions Monitor” have also focussed on the criminal justice response in this area.

Eurojust and Europol will continue developing targeted reports, such as the Europol annual EU Terrorism Situation and Trend Report (TE-SAT), and will implement, in full cooperation with the EU counter terrorism coordinator, coordinated actions at the operational level, including on foreign fighters, to which Frontex and eu-LISA could also contribute as far as borders is concerned.



Another concrete example of operational support is the establishment of a dedicated Focal Point at Europol (“Travellers”), facilitating the exchange of operational data on foreign fighters.

A Coherent European Law Enforcement Training Policy

The priorities set by the EU Institutions have highlighted that common training of the relevant authorities is fundamental in countering transnational crime. Towards this end, the EU Institutions deem it essential that training is systematically made accessible to all professionals involved in the implementation of the area of freedom, security and justice. Common training enables to stimulate a common culture and to enhance mutual trust and cooperation. In this context, the European Law Enforcement Training Scheme (LETS) will be developed under the coordination of CEPOL, in line with the Commission Communication on LETS, aiming *inter alia* at avoiding overlaps and creating synergies among training providers.

3. Fostering the functioning of the European area of Justice

The smooth functioning of a European area of justice is vital for the EU. Mutual trust is key to EU justice. Mutual trust between courts and administrations helps them recognise and enforce each other's decisions and facilitates access to justice on equal terms in all Member States.

A very important element of trust is that laws in the books become laws in action. This requires laws already adopted at EU level to be transposed and applied effectively in the Member States.

In this sense, the EU has set the priority of facilitating access to justice and promoting effective remedies and the use of technological innovations, including the use of e-justice. To this aim, FRA is developing a Complaints, Legal Assistance and Rights Information online tool that will enable easy identification of the most appropriate non-judicial complaint body, such as ombudsinstitution or equality body in a specific Member State. A Handbook on access to justice in Europe will complement these efforts.

The EU has called for continued efforts to strengthen the rights of accused and suspect persons in criminal proceedings and to examine the reinforcement of the rights of persons, notably children, in judicial proceedings. By way of contribution towards achieving this aim, FRA will undertake work on criminal procedural rights, in particular on the rights to interpretation, translation and information, as well as rehabilitation and mutual recognition of persons sentenced or awaiting trial and will continue its work on the participation of children in civil and criminal proceedings, child protection systems and guardianship.

The reinforcement of the protection of victims has also been underlined as a priority for the next years in the European area of Justice. The JHA Agencies can contribute to this objective. For instance, FRA has collected evidence on victims of crime and conducted EU wide surveys of ethnic minorities, LGBT persons and violence against women. EIGE has also conducted research in the area of gender based violence against women, including cyber bullying. Through the Working party on hate crime, FRA will work together with EU Member States, facilitating exchange of practices on how to improve hate crime reporting and recording. FRA is conducting studies on victim support services, access to justice for victims of hate crime and victims of severe forms of labour exploitation.

Operational cooperation and coordination are fundamental to the development of the area of Justice, particularly through promoting mutual trust, facilitating exchange of information between competent authorities of the Member States, supporting cross-border investigations and prosecutions and the efficient execution of mutual recognition instruments and recent legislative instruments such as the Freezing and Confiscation Directive and the European Investigation Order.

Practitioners across Europe need to work together to exchange information in a fast and secure way and to obtain assistance from their counterparts. A multidisciplinary approach is essential in successfully fighting crime, based on effective information exchange among different actors and use of the available tools. Enhancing operational cooperation between all parties involved is crucial, particularly for

establishing mutual trust. Eurojust, the EU body set up for coordination of investigations and prosecutions, is the main reference in this field. In this context, the potential of JITs should be used to the maximum. The establishment of JITs and the organisation of coordination meetings are powerful tools that bring added value to the operational law enforcement and judicial cooperation. Eurojust's coordination meetings bring together both law enforcement and judicial authorities from Member States and third countries, allowing for strategic, informed and targeted operations in cross-border crime cases and the resolution of legal and practical difficulties.

Another crucial component for mutual trust is training. As mentioned before, to achieve this goal it is essential that training is accessible to all professionals involved (i.e. judges, prosecutors, judicial staff, legal practitioners, police and customs officers, border guards and migration, asylum officers and other civil servants). Training for law enforcement practitioners is, to a large extent, in place, owing to a more specialised approach to criminal phenomena and the work of CEPOL. It is, however, a permanent challenge for prosecutors and judges who have a more horizontal approach to cases and a less specialisation oriented working culture. Eurojust contributes by organising thematic seminars, during which practitioners can share experiences and best practices and by facilitating the meetings of the Consultative Forum to ensure dialogue amongst high-level public prosecutors and cooperation with the European Judicial Training Network and CEPOL.

In the field of asylum, EASO has created a network of specialised national and European judges and is developing professional development materials as well as the first steps towards a case-law database on asylum.

Protecting and promoting Fundamental Rights constitutes a horizontal priority in the area of freedom, security and justice and the JHA Agencies will give support to mainstream Fundamental Rights in the EU actions. Together with the other Fundamental Rights, the right of equality between women and men is stressed as a priority. EIGE will play a role in providing evidence and information on gender equality through its research and activities, particularly, through its Gender Equality Index and the monitoring of the Beijing Platform for Action.

4. Coherent internal and external dimensions

The internal and the external dimensions in the JHA field are closely interlinked. Migration, asylum, border management, judicial cooperation, fundamental rights, the fight against serious and organised crime, including THB, as well as in drugs cannot be effectively addressed or coherent without taking into consideration the cooperation with third countries.

In line with their respective mandates, many of the JHA Agencies are playing a significant role in supporting the implementation of external actions in agreement with the European Commission and in coordination with the European External Action Service and within the framework of the EU external relations policy. In this regard, many of the JHA Agencies have engaged in cooperation and capacity building activities (delivering training, sharing expertise, providing technical assistance, including the use of specialised IT systems and promoting fundamental rights) in key third countries.

In line with their mandates, the JHA Agencies will be an essential instrument to the operational implementation of the objectives of the EU external policies, such as the Global Approach to Migration and Mobility (GAMM).

In the area of migration, the EU will continue in its relations with partner countries to promote the GAMM and to provide relevant assistance to countries of origin and transit, including in view of strengthening their capacity to prevent irregular migration and combat migrant smuggling and THB, improve border management, as well as asylum and reception capacities. In line with the priorities established by the EU and taking into account capacity constraints, Frontex and EASO will enhance their cooperation with key countries of origin and transit, neighbouring countries in particular. In this regard, the EU institutions indicated that EASO may be called to coordinate operational efforts on resettlement,



notably regarding the Syrian crisis, as well as participating in Regional Protection Programmes, in close cooperation with UNHCR. Through a working arrangement with EEAS, Frontex will also develop its cooperation with Common Security and Defence Policy (CSDP) central structures and missions, thereby strengthening the nexus between internal and external security.

In the area of internal security, the EU also needs to act beyond EU borders and in cooperation with third country partners. Areas, such as radicalisation, addressing THB and the fight against drug trafficking require such cooperation. The JHA Agencies, in particular CEPOL, EMCDDA, Eurojust, Frontex and Europol, can play a relevant role by providing assistance in law enforcement capacity building by offering training or sharing knowledge and best practices. This assistance will be best implemented through coordinated EU funded technical assistance projects.