

POSITION PAPER ON
**FROM EUROPOL TOWARDS
A “EUROPEAN FBI”
BOOSTING THE UNION’S
LAW ENFORCEMENT
COMPETENCES**



renew europe.

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A “*EUROPEAN FBI*”**

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Enforcement Competences**

POSITION PAPER

Table of Contents

Introduction	3
Therefore, RENEW Europe calls for	5
) Reinforcing EUROPOL's role in some key areas	5
) Strengthening Europol's role towards and links with the Member States.....	6
) Give EUROPOL a right to initiative.....	7
) EUROPOL, as an expertise hub.....	8
) Stronger cooperation with other actors.....	9
) Providing Europol with adequate resources	11
) Stronger oversight, fundamental rights and data protection safeguards	11
Going further	14

Introduction

Organised crime, terrorism, drug trafficking, human trafficking are and remain major threats in Europe, with criminals becoming ever more sophisticated and violent, acting in ever **more organised, powerful, large-scale and interconnected networks across Europe**. While drug trafficking remains the largest criminal market in the EU, new threats emerge such as cybercrime, environmental crimes or threats to EU financial stability, aside from other more traditional - yet still serious - challenges, such as human trafficking and money laundering. Terrorism, extremism and radicalisation also strongly threaten EU's security, with the multiplication of right and left wing extremists and terrorist attacks in the recent years. Such crimes and threats aim to **strongly undermine our fundamental values, our democracies, our economies, the European project and the European Union's interests**.

Security is a fundamental right. For a safe and prosperous Europe, we need to make internal and cross-border security a key priority. Security is by no doubt a strategic area for the Member States but also for the EU as a whole: **security is a common challenge** as serious crime often occurs across borders and **a priority for European citizens**. **Therefore, the European Union must have a common European Strategy for Security** - in terms of priorities, coordinated approaches, legal and practical tools, expertise, infrastructures, information exchange and operational cooperation, so that Member States can work together effectively to tackle shared challenges.

In this framework, **Europol, as Europe's law enforcement agency, has strongly emerged, in the past 20 years, as a key actor** in the fight against cross-border organised crime and terrorism in the EU. Its work has proven essential and very relevant in assisting Member States in the fight against cross-border crimes, in strengthening operational cooperation and coordination for cross border investigations, in facilitating the sharing of information among law enforcement authorities and in responding to those **new security challenges**.

Renew Europe stands for a strong Security Union, for a Union that protects citizens and stands firm against those undermining it and therefore for **further integration in the field of law enforcement and police cooperation, while fully respecting the principle of subsidiarity**. In this regard, Renew Europe supports the work done by Europol and **strongly calls for the reinforcement and upgrade of EUROPOL as a central European actor for security** better equipped to respond quickly to ever-changing threats. While security challenges are becoming more threatening and diverse, we must **boost and clarify EUROPOL's legal mandate and scope for action in order to transform it into a "European FBI", meaning a European police force, acting in close cooperation with Member States and as the EU's main police cooperation, coordination and information-sharing hub**. A political and united Europe, with open borders definitively requires a true cross-border law enforcement agency, adequately equipped and competent to act. Such a strong and reinforced mandate must meet the democratic demands from its citizens and be accompanied by a corresponding reinforced legal framework and legal clarity, clear political accountability as well as enhanced judicial control and parliamentary scrutiny, with a strong focus on accountability, transparency and fundamental rights respect.

Therefore, RENEW Europe calls for

) Reinforcing EUROPOL's role in some key areas

The core mission of Europol is to support Member States' law enforcement authorities in the fight against organised crime and terrorism. To be a strong, reliant and valuable partner and to better support Member States in Union-wide crime, prevention, analysis, investigations, **Europol needs to be equipped to fight against ever evolving and new types of crimes and threats.**

Europol has recently created several **centres of expertise**: the European Serious and Organised Crime Centre (ESOCC), the anti-Terrorist Centre (ECTC); the Cyber Centre (EC3); the Centre for Trafficking in Human Beings, the migrant smuggling centre (EMSC), the new Financial and Economic Crime Centre (EFECC) that have proven very efficient and effective. Renew Europe strongly supports these centres and the need to reinforce them, as well as **the need revise the mandate of the Agency to properly integrate these new missions.**

In addition to the already existing EUROPOL core missions, Renew Europe also supports an upgrade in these specific fields:

- Z **Upgrading the fight against crimes online, cyberattacks and hybrid threats:** hybrid threats, cyberattacks and the spread of illegal content online are growing and are considerable threats. Additional dedicated resources should be allocated to this end, notably by reinforcing the EC3.

- Z **Keeping foreign fighters in the EU under surveillance:** the return of foreign fighters from war zones and their surveillance is one blind spot in Europe's strategy against terrorism. We should take more advantage of EU information systems and explore the possibility of allowing Europol to introduce alerts

in the Schengen Information System (SIS) and the Entry-Exit System (EES).

- Z **Fighting radicalisation in the EU:** radicalisation, of various motives, is a growing phenomenon. Europol could facilitate the exchange of best practices in this field to prevent and fight radicalisation, and support de-radicalisation processes.

- Z **Economic, financial crimes and terrorism financing:** Europol needs to act strongly against economic, financial crimes and financing of terrorism therefore, we call for a stronger role of the new EFCEC, notably to protect the Union against organised crimes affecting for example the Recovery plan, and in close cooperation with the European Public Prosecutor (EPPO) and the European Anti-Fraud Office (OLAF).

- Z **Coordination in the event of terrorist attacks:** the increasingly cross-border nature of terrorist attacks across the continent highlights the need for even more coordination at EU level, in terms of information sharing but also response effectiveness. Europol should strengthen its European Counter Terrorism Centre (ETCT) and particularly its Emergency Response Team (EMRIT) to become a fully operational coordination hub in the event of a cross-border terrorist attacks.

) **Strengthening Europol's role towards and links with the Member States**

One of the core missions of EUROPOL is to enhance cooperation via information exchange among Members States and with Europol. Such cooperation between national authorities and with EUROPOL is working and mutual knowledge and trust has been built up over the 20 past years.

However, to build a closer Security Union, there is a need to reinforce mutual trust and to go **one-step further: Member States should be obliged to fill in Europol's databases and in the European Information System (EIS) with targeted information and knowledge rather than simply making it available on an irregular basis.** We call on Member States to increase their use of the EIS, which is currently underused. The participation of Member States should be more systematic and codified, to **make Europol a real coordination hub** in terms of exchange and analysis of information linked to combatting serious and cross border crimes and to build strong European databases to support Member States' investigations.

) Give EUROPOL a right to initiative

In order to effectively fight organised crime and terrorism and to maximize the effect of European police and law enforcement cooperation, **EUROPOL cannot merely depend on Member States' willingness to share information or to act.** In addition, some Member States do not have the capacity to conduct large-scale investigations or do not want assistance from Europol in sensitive cases¹. Therefore, **Europol should have a greater right of initiative to start new investigations and execute law enforcement activities in and with the Member States and to proactively engage in and handle cases on its own.**

Renew Europe strongly advocates **empowering Europol to conduct and coordinate cross-border investigations, as opposed to only act at the Member States' requests.** Such investigations may be initiated only if an illegal activity involves a cross-border dimension, where a crime is committed or materialised to a relevant degree on the territory of a Member State no matter where the criminal resides (EU or non-EU) or a suspicion thereof and only for the categories of

¹ The Bulgarian and Maltese refused to ask Europol for help after journalists were killed in their countries.

offences recognised equally in the EU². EUROPOL can proactively take the lead in bringing cross-border cases to a successful result in close cooperation with the relevant Member States

In addition, the link between Europol and Member States requires reinforcement, meaning that there should be **stronger cooperation between Europol and Member State authorities** and that investigations conducted by EUROPOL **should be appropriately followed-up by Member States** and vice versa. European citizens must be able to rely on the fact that criminals do not slip through the mazes of inactivity.

) EUROPOL, as an expertise hub

RENEW Europe calls for the **strengthening of Europol's role in terms of research & development**. Europol's key task is to provide Member States with specific and technical expertise. There is a strong benefit for Member States to pool resources to increase knowledge on common and ever-evolving threats and one of EUROPOL's main added value is the production of studies crossing data from the 27 Member States. Therefore, we need to enhance its analytical capabilities on organised crime, terrorism and cybercrime to support Member States' investigations.

Strengthening the exchange and sharing of experts' knowledge and capacities on the ground between Member States would also be very relevant. Europol should work as a platform of exchange between Member States' law enforcement authorities where expertise and best practices are shared among counterparts. Dedicated programs of exchange should also be put in place.

In addition, in times of digital change, **Europol must take part in the digital revolution**, profiting of the new digital technologies in data gathering, data mining and criminal investigations, strengthening

² EIO Directive reference to be added.

its use of new technologies and investing in artificial intelligence to better process data. This shall always be, in full compliance with EU data protection rules, including fundamental rights impact assessments, the future EU framework on ethics and AI and there must be full and proactive transparency about cooperation with the private sector. Data quality and rapid processing will be key determinants for investigators in the near future. In this regard, we welcome the recent creation of the EUROPOL's **Innovation Laboratory** to drive innovative policing solutions for EU law enforcement and create more synergies with private sector. Our world is being transformed by technology, criminals know how to take advantage and how to use every blind spot, therefore developing Europol's competence in this area is key. RENEW Europe however opposes the use of AI by law enforcement authorities for methods such as predictive policing.

) Stronger cooperation with other actors

A stronger cooperation also requires more cooperation with all stakeholders involved.

First of all, at European level: cooperation with other EU agencies active in the law enforcement area is crucial and needs to be intensified, for example with the new EPPO, EUROJUST, OLAF but also with CEPOL.

Secondly, at international level: **Europol should be allowed to have operational cooperation with third countries and international organisations** - to engage in a better exchange of data and also to develop more expert-knowledge from the field in relevant 3rd countries, always only on the basis of solid agreements, subject to frequent review and with the right of Parliament to suspend such an agreement in case the 3rd country's authorities are violating the agreement. Provided the UK offers sufficient and robust guarantees notably on data protection, security standards and will fully address established shortcomings, a tight partnership - between the EU and the UK would be key, as the UK is currently a major contributor to

Europol, in terms of data, intelligence experience, cooperation in joint investigations. In addition, as part of such an international dimension, Europol should have liaison officers deployed on a reciprocal basis in 3rd countries and international organisations³.

Furthermore, EUROPOL could develop a **global strategic vision and become a worldwide reference organisation, by cooperating with Interpol**, as well as Ameripol, Afripol and Aseanpol as relevant regional actors, after prior guarantees and safeguards by those actors that their databases cannot be abused by authoritarian and corrupt States to target political opponents or other rivals.

Enhanced cooperation and data-sharing with third countries will naturally mean further demands in order to ensure the safeguarding of fundamental rights and efficient paths for judicial redress, for EU and non-EU citizens.

Thirdly, Europol needs a more effective **cooperation with private parties, notably regarding the exchange of data**. Currently, Europol is not entitled to collect private data from companies and private stakeholders, while this type of data can be essential in many areas, such as cybercrime, child sexual exploitation or financial crimes. Europol should be able to exchange data directly with private parties, including via specific partnerships with some specific actors - this should only be possible under clear established processes in full respect of fundamental rights, transparency the ECJ jurisprudence and data protection safeguards - and such cooperation could be facilitated by creating a **fast track** between national authorities and private parties so that what EUROPOL urgently requests can be dealt with as a matter of priority.

³ There are currently for example, 35 liaison officers from various security and intelligence organisations deployed at EUROPOL whereas there is no EU staff deployed at US agencies or organisations;
https://www.europarl.europa.eu/doceo/document/E-9-2019-002249-ASW_EN.html
<https://www.europol.europa.eu/about-europol/statistics-data>

) Providing Europol with adequate resources

Such additional missions given to Europol as well as the new and evolving threats in the EU will require a significant budget increase and qualified human resources and experts for the Agency. **Renew Europe strongly calls for an uptake of Europol's human, technical and financial resources.**

Europol should be **properly equipped with material and also human resources, so as** not to depend only on the Member States capacities. Currently, Europol agents are already deployed on the ground being a valuable addition to national investigators. However, more multi-disciplinary teams and specialised experts are needed in certain investigations. In order to build on the already operational sharing of expertise, **a European hybrid pool could be created consisting in a reserve of national and Europol experts ready to be deployed** in close cooperation on some cross border investigations where and when necessary. Simultaneously enhancing relevant know-know.

) Stronger oversight, fundamental rights and data protection safeguards

In a Europe based on values, **the respect of fundamental rights as well as democratic and judicial control over security and law enforcement bodies is of key essence.** Such an uptake in terms of EUROPOL's competences, resources and responsibilities will thus absolutely require:

- Z **Additional and clear fundamental rights anchoring.** We are calling for:
 - o The establishment of a fundamental rights officer within EUROPOL, who will be tasked to implement and further develop a fundamental rights strategy,

including an effective independent mechanism for monitoring respect for fundamental rights in all the activities of the Agency, in cooperation with agencies such as FRA as well as independent experts.

- The creation of a complaints mechanism and new rules applicable to the judicial review of procedural measures taken by EUROPOL in the performance of its functions, especially regarding decisions that might have consequences and effects on individuals.
- Mandatory fundamental rights training for all Europol staff in cooperation with FRA and CEPOL
- The Development of an EU Code of Police Ethics⁴ that provides a set of principles and guidelines for the objectives, performance, oversight and control of the police in democratic societies governed by the rule of law, which can also help Europol staff and police actors in their daily work to properly enforce the prohibition on racism, discrimination and ethnic profiling. The Commission should create an independent expert group tasked with developing such a code

Z A **stronger oversight**, as legal clarity, transparency and paths for accountability are key, via:

- a reinforcement of the EUROPOL Joint Parliamentary Scrutiny Group that should have stronger oversight and control capacities into EUROPOL operational work and the ability to issue recommendations ;
- an independent EU supervising body, that would have access to all Europol's activities and information, would independently conduct investigations whether Europol's activities are lawful and would regularly publish reports on its findings and conclusions

⁴ https://www.europarl.europa.eu/doceo/document/TA-9-2020-0173_EN.html

Z **Stronger data protection and privacy safeguards:**

Indeed, more responsibilities and competences will inevitably imply more data processed. In addition, EUROPOL is currently increasingly dealing with large volumes of data and larger datasets, received as contributions from Member States, which is not in line with the EUROPOL Regulation. Renew Europe strongly demands increased **safeguards on how EUROPOL is processing, exploiting and handling information and personal data and on how Europol's information systems are structured**, to ensure compliance with the key principles of purpose limitation, data minimisation, storage and retention period limitation and data security.

In addition, a proper data transfer control mechanism should be set up - with clear procedures, effective safeguards and oversight from the EDPS - regarding all data transfers EUROPOL is tasked, under an international Treaty (as TFTP agreement for example), to verify the legality as well as the respect of data protection rules.

Going further

The creation of such a strong European police and law enforcement Agency, that we are calling for, requires additional measures.

First, Renew Europe calls to continue the **harmonisation of national criminal legislations** and to provide Europe with a proper and harmonised list of “European crimes”, as for instance crimes relating to child abuse, terrorist crimes and crimes against the Union’s economic interests. Only by creating such harmonised “European criminal law”, will the European Union be able to have an efficient European police and law enforcement force, acting together with Eurojust and the EPPO, in the prevention and prosecution of cross border crimes.

Second, the **lack of implementation of EU legislation by Member States**, in particular in the area of law enforcement, also remains an issue. Adopting new legislation without proper enforcement is not acceptable. Renew Europe calls on Member States to fully implement new legislation and on the Commission to fully use all tools at its disposal to ensure their correct implementation by Member States.