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NOTE

From: General Secretariat
To: Standing Committee on operational cooperation on internal security (COSI)
Subject: Interim report on cooperation between JHA Agencies

Delegations will find in Annex I the interim report on the cooperation between JHA agencies. The report was jointly drafted by CEPOL, Eurojust, Europol and Frontex.

INTRODUCTION

As a follow-up to the informal JHA Ministerial Meeting of 1 October 2009, the Swedish Presidency asked CEPOL, Eurojust, Europol and Frontex to produce a report on how to further improve their cooperation, including “inter alia, guidelines for strategic and operative work, common standards, joint training initiatives, development of working methods and routines for practical cooperation”¹. The Presidency requested a first interim report to be produced by 15 January 2010. This report is expected to be a stock taking exercise of current cooperation activities to be used as input for the Spanish Presidency. The final report including forward looking proposals should be produced by 1 April 2010 for discussion during a COSI meeting thereafter.

The Stockholm Programme foresees the development of a “*genuine European judicial and law enforcement culture*”. In that context, it calls for a “*stringent cooperation between EU agencies, including further improving their information exchange*”. Moreover, “*Europol and Eurojust should step up their cooperation further.*”²

The idea to develop and improve the horizontal cooperation between JHA Agencies had already been introduced in The Hague Programme.³

In considering their cooperation the Agencies recognise a distinction between that which operates on a bilateral level, which normally is more specific in nature and related to certain operational issues, and that which allows for multilateral cooperation in such generic fields as governance and external relations.

¹ Letter from Mr Werkström, SE Presidency, to the Director of Europol, dated 30 November 2009, Europol file number # 437952 (ANNEX II).

² The Stockholm Programme – An open and secure Europe serving and protecting the citizens, Council document 17024/09, JAI 896, Brussels, 2 December 2009, p. 8, 36, 41.

³ “*Coordination of operational activities by law enforcement agencies and other agencies in all parts of the area of freedom, security and justice, and monitoring of the strategic priorities set by the Council, must be ensured. [...] the Council is invited to organise a joint meeting every six months between the chairpersons of the Strategic Committee on Immigration, Frontiers and Asylum (SCIFA) and the Article 36 Committee (CATS) and representatives of the Commission, Europol, Eurojust, the EBA, the Police Chiefs' Task Force, and the SitCEN*”. The Hague Programme: strengthening freedom, security and justice in the European Union, Council document 16054/04, JAI 559, Brussels, 5 November 2004, p. 25.

BILATERAL COOPERATION BETWEEN AGENCIES

Formal cooperation arrangements

JHA agencies (CEPOL, Eurojust, Europol, and Frontex) have established an extended cooperation framework based on bilateral cooperation and information exchange agreements.

	CEPOL	Eurojust	Europol	Frontex
CEPOL	-----	Memorandum of Understanding 01/01/2010 ¹	Agreement 20/10/2007 ²	Cooperation agreement 25/06/2009
Eurojust	Memorandum of Understanding 01/01/2010	-----	Agreement ³ 01/10/2009 (revised agreement)	No formal working arrangement
Europol	Agreement 20/10/2007	Agreement 01/10/2009 (revised agreement)	-----	Agreement ⁴ 29/03/2008
Frontex	Cooperation agreement 25/06/2009	No formal working arrangement	Agreement 29/03/2008 Cooperation Plan 01/10/2009	-----

In addition, the agencies have developed cooperation arrangements with the relevant EU bodies, in particular SitCen and OLAF⁵.

¹ The date indicates the entry into force of the respective agreement/arrangement.

² Strategic cooperation agreements allow for the exchange of strategic information, e.g. strategic reports, threat assessments, best practice, training, excluding personal data.

³ Operational cooperation agreements allow for the exchange of all kinds of information, including personal data. The Agreement of 1 October 2009 repealed the Agreement of 4 June 2004 with effect from 1 January 2010.

⁴ Working Arrangement according to art. 13 of Frontex Council Regulation (EC) 2007/2004 of 26 October 2004.

⁵ For example, Eurojust signed a Practical Agreement on arrangements for cooperation with OLAF (24 September 2008).

Strategic Cooperation

There have been several successful initiatives to improve bilateral cooperation between the JHA agencies. Bilateral cooperation between agencies at governance level has been identified as the most efficient tool for cooperation.

Eurojust – Europol

In 2004, Europol and Eurojust signed their first cooperation Agreement to establish close cooperation in order to increase their effectiveness in combating serious forms of international crime. On 1 October 2009 a revised Agreement was signed aimed at strengthening and further improving cooperation between the two bodies by facilitating information exchange, particularly in relation to Europol's Analysis Work Files. The revised Agreement entered into force on 1 January 2010.

At strategic level the following activities can be recorded:

- Europol and Eurojust together have set up a Eurojust-Europol Steering Committee. This Committee has been institutionalised and meets at least every 6 months. The Committee monitors the implementation of the Agreement. Topics of discussion are general matters of interest for both organisations with a focus on legal and practical issues. In addition, regular meetings are organised between the President of Eurojust and the Director of Europol.
- Recently, a 'Task Force Implementation' was established to support the thorough implementation of the new Agreement between Eurojust and Europol. The Task Force will provide a forum for discussion on working level to incorporate a number of projects related to the new Agreement.
- Eurojust regularly (since 2007) attends the meetings of the European Police Chiefs' Task Force (EPCTF) and the Heads of Europol National Units (HENUs). This has promoted awareness about issues of common interest.
- The Head of the Counter-terrorism Unit of Europol and the Chair of the Counter-terrorism Team of Eurojust regularly meet to discuss Counter-terrorism related issues on an ad hoc basis, as well as on tactical and strategic Counter-terrorism related topics. In the same context, regular visits are taking place from the Counter-terrorism Unit of Europol to the Counter-terrorism Team of Eurojust and vice versa.

- Eurojust and Europol provide the Council with a joint annual report on cooperation between the two organisations¹

CEPOL - Europol – Frontex

- Europol and Frontex are invited as observers to the CEPOL Governing Board.

CEPOL - Eurojust - Europol – Frontex

- Eurojust, Europol and Frontex are invited to one of the annual programme committee meetings of CEPOL.

Europol – Frontex

- Frontex and Europol meet at Director’s level on an annual basis to further develop the general cooperation.

Operational cooperation

Regular exchange of information takes place between JHA agencies in the framework of operations.

Europol – Frontex

Europol and Frontex exchange strategic information mainly related to illegal immigration and cross-border crimes. Both organisations participate regularly in each others relevant meetings. Europol participates in selected Joint Operations, thus having full access to additional sources of information for carrying out its tasks. Europol is an active member of the Borders Analytical Community through its regular participation in the Frontex Risk Analysis Network (FRAN).

¹ In accordance with 2.3 of The Hague Programme, annual reports have been provided for 2005/2006 (Council Document 17069/06 of 21 December 2006), 2007 (Council Document 16760/08 of 4 December 2008) and 2008 (submitted to the Council Secretariat on 8 October 2009).

Eurojust - Europol

Eurojust is currently associated to twelve of Europol's Analysis Work Files (AWFs). Eurojust's nominated experts participate in operations meetings and mutual exchange of information at Europol. AWF members also participate in operational coordination meetings held at Eurojust. A joint document on frequently asked questions with regard to AWF was agreed in January 2009 to facilitate the practical implementation of the association agreements. In addition, a roadmap has been agreed upon to tackle obstacles in operational cooperation.

Europol and Eurojust exchange information and conduct coordinated activities (e.g. Operation Trufas, Andromeda, Crieieru, Young Lady) in the framework of transnational investigations or in the framework of Joint Investigation Teams (see below) and regularly attend each others operational meetings.

Additionally, Eurojust and Europol signed a Memorandum of Understanding on the Establishment of a Secure Communication Link on 7 June 2007. In September 2008 they concluded a Memorandum of Understanding on a Table of Equivalence which allows them to exchange information up to and including the level of "restricted".

Analysis / threat assessments

Frontex - Europol

- Europol and Frontex regularly share information in order to mutually facilitate the development of analytical products and threat assessments, e.g. regarding migration routes. Joint threat and risk assessments are produced related to regions/topics of common interest.
- Frontex regularly contributes to the Europol Illegal Immigration Bulletin and OCTA.
- Europol contributes on a regular basis to the Frontex' Risk Analysis Network (FRAN) Quarterly Reports and to the Annual Risk Assessment (ARA).

Europol - Eurojust

- Eurojust contributes to various Europol reports including the OCTA, TE-SAT and thematic threat assessments (e.g. ROCTA).

Joint Investigation Teams (JIT) expert network

Eurojust – Europol - CEPOL

Eurojust and Europol cooperate intensively in the area of JITs¹, inter alia by jointly organising an annual seminar for JIT experts in the framework of the JIT Experts Network (set up in 2005), commonly drafting a JIT manual etc. Following the implementation of the new Eurojust Decision², Eurojust will host the JIT Network Secretariat. Cooperation in this field is exemplary as it provides concrete added value to investigators in the Member States.

Additionally, CEPOL supports the JIT expert network by providing training in the Member States.

Training / Learning

CEPOL cooperates with all other JHA agencies in the field of training. Main aspects are the joint planning, coordination and organisation of training courses. Europol, Eurojust³ and Frontex experts support as trainers CEPOL learning activities.

In close cooperation with Europol, CEPOL is just finalising the e-learning tool about Europol.

Bilateral cooperation in the area of training also exists between Europol and Frontex (e.g. analysis courses, exchange of best practise regarding media monitoring, mutual staff exchange) and Eurojust and Frontex (e.g. courses and conferences, mainly in the area of trafficking in human beings).

External Communication

- Eurojust and Europol follow a joint communication approach after common operations have taken place, i.e. both organisations jointly produce press releases, organise press conferences etc. This approach has proven to be successful, e.g. with reference to the overall media attention to Operation Koala, where a joint press conference was organised (November 2007).
- Moreover, Europol and Frontex cooperate in media monitoring as well as open sources research.

¹ See also Eurojust and Europol websites (www.eurojust.europa.eu/jit.htm; www.europol.europa.eu/index.asp?page=content_jit).

² Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust and amending Decision 2002/187/JHA setting up Eurojust with a view to reinforcing the fight against serious crime.

³ Eurojust does provide further training, via the EJTN network. Eurojust signed in 2008 a Memorandum of Understanding on cooperation with the European Judicial Training Network in order to establish and regulate cooperation in the field of judicial training.

MULTILATERAL COOPERATION BETWEEN ALL JHA AGENCIES, INCLUDING CEPOL, EUROJUST, EUROPOL AND FRONTEX

General issues

Since 2006, a yearly JHA Heads of Agencies meeting has taken place, under a rotating chairmanship. In this forum set up upon the initiative of Mr Michael Kennedy, former President of Eurojust¹, the four agencies in question as well as OLAF, EPCTF, SCIFA (partly), SitCen, FRA (partly), EMCDDA (partly), the respective EU Presidencies, the Council Secretariat and the Commission are represented. The initial intention for the meeting was to “serve as a practical forum to exchange ideas and in particular to identify areas of work where there are common interests [...] for greater effectiveness through closer cooperation”². Based on The Hague Programme³ and the Architecture of Internal Security⁴, duplication of work should be avoided as well⁵.

Business planning

During the regular JHA Heads of Agencies meeting in 2007, the alignment of planning documents of the JHA agencies was identified as an important issue to ensure a common approach and to avoid overlaps. A consultation about the respective draft planning documents was agreed. As a first step, a JHA Agencies Questionnaire on Planning Methods and Timing was circulated by Europol and the results evaluated. At the meeting of JHA Heads of Agencies in June 2009, it was agreed that each agency would identify the most appropriate way to consult the others in the preparation of its planning documents.

At the same meeting, it was agreed that meetings should continue at working level to exchange best practices between planning practitioners. The Commission offered to host the next meeting.

¹ Initiative brought forward by the President of Eurojust, Mr Michael Kennedy during the High Level Coordination Committee (HCC) on 10 February 2006, Europol file number # 162551.

² Letter from the President of Eurojust, Mr Michael Kennedy, dated 17 March 2006, # 169801.

³ The Hague Programme: strengthening freedom, security and justice in the European Union, Council document 16054/04, JAI 559, Brussels, 5 November 2004.

⁴ Architecture of internal security, Council document 9596/1/06, JAI 271, Brussels, 22 May 2006.

⁵ Meeting of Coordination of Operational Cooperation, Summary of discussions, 10 February 2006, Council document 6290/06, JAI 56, Brussels, 21 February 2006.

Information exchange / Data protection / Information security

Data protection and information security matters were given high importance during the JHA Heads of Agencies meeting. The issue was discussed in detail on 26 June 2007. A “Follow-up group of EU JHA agencies on legal challenges with regard to the exchange of information” was set up from 2006-2009 to discuss the legal framework applicable to the exchange, reception and forwarding of information, data protection principles, confidentiality requirements, security aspects and public access to documents. OLAF presented the results during the JHA Heads of Agencies meeting on 16 June 2009. As a follow-up the Commission (DG JLS) offered to host an ad hoc sub group meeting which would examine the inventory of agreements/arrangements with third partners with a view to exploring further possible synergies, in particular with regard to checking the level of data protection in third countries.

JHA external strategy and cooperation with third partners

According to the Strategy for the External Dimension of JHA: Global Freedom, Security and Justice, “EU agencies such as Europol, Eurojust, and Frontex [...] should be tasked to enhance appropriate operational cooperation with priority countries”.¹

At its 2008 meeting, the Heads of JHA Agencies concluded that an overview of agreements/arrangements between JHA Agencies and third parties should be compiled and model agreements and arrangements collected.

Agencies should also exchange information on their future plans and contacts with third countries. The JAI-RELEX Working Party was mentioned as the right platform for exchanging this information.

JHA Agencies should ensure close cooperation with the EU delegations and the Presidency's representatives in third countries when actions are planned or undertaken in the respective third countries.

¹ Strategy for the External Dimension of JHA: Global Freedom, Security and Justice, Council document 15446/05, JAI 488, Brussels, 6 December 2005, p. 7.

External Communication

CEPOL, Eurojust and Frontex participate in Europol's yearly awareness seminar for law enforcement spokes persons aimed at informing Member States and JHA agencies about relevant developments at Europol in the field of media relations and awareness, but also about Europol in general.

In 2006, a "network of contact points" of all JHA Agencies was set up to facilitate communication.

EXISTING PLANS AND OBJECTIVES FOR 2010 AND 2011

- Implementation of the new **Eurojust Decision**: The new Eurojust Decision was adopted on 16 December 2008. It aims at further enhancing Eurojust's operational capabilities, increasing the powers of National Members, improving the exchange of information between the Member States and Eurojust and strengthening Eurojust's capacities to interact with third States and organisations. Eurojust puts strong emphasis on the full implementation of the new Decision. To that end, Eurojust, together with the Trio Presidency, the Commission and the Council Secretariat, has convened a so-called Informal Working Group which serves as a platform for Member States' experts and Eurojust to facilitate the thorough implementation of the new Decision.¹
- Objectives in the **Eurojust Work Programme 2010**: The Work Programme includes activities related to the priorities for enhancing operational work. With regard to Europol, Frontex and CEPOL, the following activities were identified:
 - Europol: Eurojust will continue to develop its casework cooperation with Europol. Eurojust would like to enhance its presence in the operational work of Europol through the association of Eurojust to Analysis Work Files in 2010.
 - Frontex: The College is considering starting negotiations for cooperation with Frontex.
 - CEPOL: A Memorandum of Understanding was signed in 2009, and both organisations should work closely together and cooperate in the organisation of courses, seminars, conferences, common curricula, training activities and study hours in areas of mutual interest.

¹ Please see in particular article 12 (Eurojust national coordination system), article 26 (relations with Community or Union related institutions, bodies and agencies) and article 26a (relations

- **Steering Committee Europol-Eurojust Scoreboard:** The Committee planned the following activities for 2010: Establishment of an exchange programme, joint awareness sessions for internal and external partners, evaluation of information exchange and improving the use of the secure link between Eurojust and Europol.
- Objective 5.3 in the **Europol Work Programme 2010**¹ is to “Develop more effective horizontal cooperation with the relevant EU agencies and bodies and with relevant international organisations.” It is further mentioned that “The guiding principles of Europol’s interaction with these bodies [...] will be to ensure that products and services complement each other and to avoid duplication, but also gaps in service provision.”
- Within the objectives and activities in **CEPOL Work Programme 2010** it is clearly stated that CEPOL would like to improve cooperation with Europol, Eurojust and Frontex. The Work Programme was developed with contributions from these agencies. Within the calendar of CEPOL activities as a part of the Work Programme the contributions by the other agencies by sending experts to a course and giving advice is clearly stated. It is an ongoing process to consider the priorities of the other agencies in the process of the development of the Work Programme.
- The Objectives and activities in the **Frontex Programme of Work 2010** are focused on building and maintaining strategic partnerships with other EU bodies or international organisations aiming at further developing the concept of Integrated Border Management and contributing to the achievement of awareness, response and interoperability as Frontex’ strategic goals.
- The intended objectives and activities in the **Frontex Programme of Work 2011** particularly address the inter-agency cooperation priorities established in the Stockholm Programme; e.g strengthened cooperation between JHA law enforcement agencies (Europol, CEPOL, Eurojust particularly in the framework and under guidance of the COSI). Besides this, cooperation with other agencies such as the European Aviation Suppliers Organisation and the Fundamental Rights Agency as well as the EU’s External Action Service will be of particular importance.

with third states and organisations).

¹ 13788/09 EUROPOL 73, Brussels, 2 October 2009

- **Europol-Frontex Cooperation Plan:** On 1 October 2009, both organisations agreed on a cooperation plan comprising operational cooperation, confidentiality and security, institutional and strategic cooperation, external relations, and ICT.

CONCLUSION AND WAY FORWARD

- There is wide acknowledgement of the importance of cooperation between all agencies, multilaterally and bilaterally. However, a need has been identified to better streamline initiatives and cooperation in general.
- Bilateral cooperation is already quite advanced between the agencies taking into account the limitations of the existing legal framework which does not always support full operational cooperation between EU JHA Agencies and in particular limit the possibilities of exchanging information. In some areas the Agencies are confronted to practical difficulties in implementing the agreements and thus realising their full potential. In this respect, bilateral cooperation plans comprising concrete measures on how to step up cooperation have proven to be very useful and should be further explored.
- Increased multilateral coordination could be beneficial in some domains. The ideal scope of multilateral cooperation will be further explored in the final report, which will take full account of the conclusions of the annual meetings of Heads of JHA Agencies and its working groups.
- Concrete recommendations should be further discussed in the coming months between the concerned agencies in order to feed the final report which will be delivered to the COSI by 1 April 2010.



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**Swedish Presidency
of the European Union**

30 November 2009

Mr Robert Wainwright
Europol
rob.wainwright@europol.europa.eu

**Follow-up to the Informal Meeting of EU Ministers of Interior on
the Future of Europol and EU Law Enforcement Cooperation in
The Hague on 1 October 2009
– request for a report on improved cooperation**

Dear Mr Wainwright,

On 1 October 2009 an informal meeting of Ministers of Interior took place in The Hague under the chairmanship of the Swedish Minister for Justice, Ms Beatrice Ask.

The aim of the meeting was to discuss Europol, cooperation among EU crime-fighting agencies and how to link EU-internal security work with civilian crisis management efforts within the European Security and Defence Policy.

One of the topics was “*Joining forces for the operational implementation of the EU Law Enforcement Priorities*”. The aim was to discuss possible measures to strengthen the operative cooperation among EU crime-fighting agencies.

During the discussions, considerable consensus was expressed as regards the proposal to give the EU crime-fighting agencies the task of producing a report on how their cooperation can be further improved.

The Presidency would hereby like to ask the agencies to produce such a report.



se2009.eu

As expressed by some delegations in the meeting, the report should include, inter alia, guidelines for strategic and operative work, common standards, joint training initiatives, development of working methods and routines for practical cooperation.

Consideration should also be paid to the draft Stockholm programme. The programme stresses the need for stringent cooperation between EU agencies, inter alia

- further improved information exchange which ensures data protection and security;
- operational arrangements and developed participation in regional initiatives conducted by Member States and in regional bodies, and
- coherence and complementary with the priorities in external relations.

The report will serve as an important input for the work of the Spanish Presidency. Therefore, we would like to kindly ask you to deliver an interim report by the 15th January 2010 and to deliver the final report to the COSI by the 1st April 2010.

Yours sincerely,

Lars Werkström

Director-General for International Affairs
Swedish Ministry of Justice