

Replies to JPSG comments to Europol written contributions (June 2020)

1. Europol's replies to JPSG comments to "Europol's activities report from September 2019 to June 2020"

Requests for clarification by MEP Caterina CHINNICI

European Serious and Organised Crime Centre

- *In the Reporting on Europol Activities September 2019-June 2020 there is a mention of the reorganization of the European Serious and Organized Crime Centre, which will include, alongside the current European Migrant Smuggling Centre (EMSC), a Unit specializing in drug trafficking and a Unit for the fight against organized crime in order to respond to the needs of the Member States to receive more specialized support in investigating high-risk multi-criminals and organized crime groups.*

Could Europol provide more information about this reorganization and the reasons behind this decision?

Europol's reply

The reorganisation of European Serious and Organized Crime Centre (ESOCC), which was approved by Europol's Management Board in May 2019, is closely linked to the recent establishment of the new European Economic and Financial Crimes Centre (EFECC) in June 2020. A number of areas, previously under the umbrella of ESOCC (e.g. IP crime or different kind of frauds), are now part of the EFECC. This will allow to centralise and strengthen Europol's operational support provided to the EU MS and bodies in the fields of financial and economic crime, promote the systematic use of financial investigations and forge alliances with public and private entities in order to trace, seize and confiscate criminal assets in the EU and beyond. The second major strand of ESOCC's reorganisation aims at promoting and enabling coordinated EU-wide investigations targeting individuals posing the highest serious and organised crime risk in the EU, in line with the High Value Target (HVT)¹ and Operational Task Force (OTF)² approach applied by ESOCC since 2018. The establishment of two separate, dedicated and reinforced Units – one for the fight against organized crime and one for drug trafficking and drug-related crimes – are at the heart of this effort.

¹ Individuals whose criminal activity fulfils specified risk criteria and therefore constitutes a high risk of serious and organised crime to two or more Member States

² Temporary group of representatives of Member States (Third Parties) and Europol, forming a specific multi-national/disciplinary (project) team targeting the selected HVT

- *In particular, with regard to the Unit for the fight against organized crime, does Europol believe that its work would be significantly facilitated if the European Union were to bring all the measures adopted so far in the fight against organized crime to a uniform and systematically coherent regulatory framework, for example through the adoption of a European framework directive against organized crime?*

Europol's reply

On the development of the legal framework: the prevention of organised crime in the EU requires a holistic assessment of legislation considering the complexity and evolving nature of the EU criminal landscape. While Europol regularly contributes its expertise in preparatory phases, Agency does not have a role in legislative process as such. However, the implementation and application of the existing legislation would have a great impact in this area. This concerns especially the Council Framework Decision 2008/841/JHA of 24 October 2008 on the fight against organised crime. A number of workshops with EU Member States organised by the Commission last year identified a diverse landscape³ that poses a challenge for international cooperation. Additionally, further legislative and policy developments at EU level, under the auspices of the European Commission, could help stepping up the response against organised crime. In this respect, beside the recast of Europol's legal mandate, from an operational perspective, these measures could concern areas such as the seizure and confiscation of proceeds of crime, distribution of firearms, use of postal services for distribution of illicit commodities, access to information and existence of administrative legislation enabling prevention of organised crime

Child abuse material online

- *In the Reporting on Europol Activities September 2019-June 2020, the important OPERATION GARGAMEL operation is illustrated, according to which, on March 31st, the Belgian police with the support of Europol dismantled a global network of child abuse with links in over 40 countries, starting with a search during which over 9 million photos and videos of the abuse of thousands of children from all over the world were found. Thanks to the identification task force Europol has managed to identify 70 children and 30 suspects. The Belgian federal judicial police managed to identify 60 suspects (including 24 in Belgium) and 40 victims, bringing the total to 90 suspects and 110 victims.*
- *With regard to this investigation, which once again proves that such a horrendous crime has, unfortunately, no hints to diminish, can Europol say whether, to date, investigations continue to identify the other victims involved, given the huge number of child pornographic material acquired?*

Europol's reply

³ For example the absence of unified legal framework related to access to the communication data by law enforcement; EU legislation related to the distribution of firearms still contains loopholes that enable criminals to purchase firearms legally in a limited number of countries inside the EU with very limited, sometimes inexistent, control mechanisms.

Investigations are continuing to identify victims from this data. It has proven to be particularly useful in this regard and now forms part of a much larger data set of 50 million images and videos of child sexual abuse that is present at Europol for victim identification purposes. This is combined with the criminal intelligence available here and other initiatives (like "Trace An Object", <https://www.europol.europa.eu/stopchildabuse>) to provide further information to the Member States and Third Countries enabling the identification of victims and the suspects that abuse them.

The global nature of this type of crime requires global intra-EU collaboration and especially with third countries. Also taking into account that many of the minors involved in these criminal networks often belong to vulnerable categories and, therefore, their identification is more difficult (unaccompanied minors, minors from families in extreme poverty).

- *For this reason, does Europol collaborate with the competent law enforcement authorities of Third Countries and / or the various organizations aimed at monitoring this phenomenon such as, for example, the National Centre for Missing & Exploited Children - NCMEC? If so, is the degree of collaboration with them considered sufficient?*

Europol's reply

Europol collaborates with Third Countries with which it has an operational agreement, exchanging personal and operational information with them on a regular basis. This cooperation has proven to be extremely effective in combating online child sexual exploitation at a global level.

Collaboration with various organisations aimed at monitoring this phenomenon is restricted by the Europol Regulation's requirements on receipt of personal data from private parties. The cooperation with NCMEC for receipt of personal data is enabled through the cooperation of US law enforcement partners as the channel for this information. This places an administrative and operational burden on the US Liaison Officers at Europol and on Europol's European Cybercrime Centre (EC3) to enable the receipt of this data. Europol is part of the law enforcement committee that advises the NCMEC Board of Directors since 2019 and cooperation with them is very strong. Europol also hosts the European Financial Coalition aimed at combating the commercial sexual exploitation of children and composed of representatives from Law Enforcement, NGOs, Financial Sector and Payment Providers. Additionally Europol hosts several Advisory Groups on Financial Services, Telecommunications Providers, Internet Safety and also involving Academia through which issues surrounding Child Sexual Exploitation are explored. Europol has worked closely with networks such as Amber Alert (Police Expert Network on Missing Children), the Australian e-Safety Commissioner's Office and others during the COVID-19 period to amplify their campaigns and products aimed at online safety.

2. Europol's replies to JPSG comments on Innovation

Request for clarification by MEP Caterina CHINNICI

In 2020, Europol set up the Innovation Lab, which aims to act as a monitoring hub for new technological developments and promote innovation, also through the development of common technological solutions for Member States in the field of internal security.

One of the first projects undertaken within the Innovation Lab program concerns a mechanism that allows greater speed for the recognition and reporting of child pornography online. This is a very important project given the constantly increasing volume of child pornography published online.

- Could Europol give us clarifications on the collaboration with private online platforms on this project?

We know, in fact, how important a close public-private cooperation on this issue is and, therefore, I would like more details on the possible participation and involvement of private stakeholders.

- Again, with regard to the new Innovation Lab, I would like to ask if there is also a revision of the technological tools for the exchange of information.

We know that law enforcement authorities and judicial authorities of the Member States face difficulties in the exchange of big amount of data through safe channels.

- Is it possible to develop programs which overcome these difficulties and which allow a fruitful and secure collaboration between Europol and the Member States?

Europol's reply

In the framework of the **Global Response Against Child Exploitation (GRACE)** project, Europol is going to cooperate with a consortium of 22 partners, including private companies (and research institutes). The referrals from Online Service Providers (OSPs) are crucial to fighting Child Sexual Exploitation (CSE). However, Law enforcement agencies (LEAs) currently receive significantly more referrals from OSPs than they can process, which leads to backlogs. The **GRACE** project aims to build a system that will speed up the processing by LEAs of referrals from OSPs of Child Sexual Abuse Material (CSAM). The OSPs include social media platforms as well as electronic service providers, such as hosting services. It is envisaged that this new system will contribute to the analysis of the content and will help prioritising the work of investigators to protect victims and apprehend offenders faster.

Regarding the exchange of information, law enforcement community is looking into innovative analysis of high volume of data using machine learning with the view to automating and standardising information analysis. Europol believes it would be possible to develop programmes to enhance the exchange of large sets of data through secure channels. However, currently, there are no plans to revise the technological tools for LEAs information exchange.

Request for clarifications by MEP Patrick BREYER

- *The document stresses "currently the Europol Innovation Lab is supporting EU Member States to implement **three** recently awarded H2020 funding projects". However, the document only provides two examples. Could you please provide a complete list of all the projects and more detailed information on each of them?*

Europol Innovation Lab is supporting EU Member States to implement the following three recently awarded H2020 funding projects: **Global Response Against Child Exploitation; Artificial Intelligence and advanced Data Analytics for Law Enforcement Agencies; Infiniti.**

The **Global Response Against Child Exploitation** project aims to enhance the fight against Child Sexual Exploitation. In particular, this project seeks to improve EUROPOL and Member States LEAs' capabilities to deal with the significant increase of Child Sexual Abuse Material (CSAM) referred to LEA around Europe. For that aim, the project will deliver a semi-automated CSEM content analysis and prioritisation mechanism. The project will also improve law enforcement agencies' ability to track trends in the production, dissemination and consumption of online CSEM.

The project on **Artificial Intelligence and advanced Data Analytics for Law Enforcement Agencies** seeks to deliver a descriptive and predictive data analytics platform and related tools using state-of-the-art machine learning and artificial intelligence methods to prevent, detect, analyse, and combat criminal activities. AIDA will focus on cybercrime and terrorism, by addressing specific challenges related to law enforcement investigation and intelligence.

The project **Infinity** aims to become a flagship project against society's most pressing cybercriminal, terrorist and hybrid threats. **Infinity** will equip investigators and analysts with cutting-edge tools to acquire, process, visualise and act upon the enormous quantities of data they are faced with every day. Infinity will be designed and developed to maximise the potential of individual investigators. Furthermore, Infinity will offer a collaborative environment for LEA cooperation.

Request for clarifications by the Cypriot delegation to the JPSG

- *'On 8 October 2019, Ministers at the JHA Council expressed their support for the creation of an innovation lab at Europol. The objectives given by the JHA Ministers to the Europol Innovation Lab is to act as monitor of few technological developments and drive innovation, including by developing common technological solutions for Member States in the field of internal security.'*
- *Due to the rapid increase of cybercrime during the Covid-19 pandemic and the development of various new online methods by criminals, this Laboratory could be considered as a measure in the right direction, highlighting new technologies to combat this phenomenon. However, as it is mentioned in the relevant written contribution, additional resources are needed for its structure and effective operation. Taking into account, that according to the EU general budget for 2020, Europol was allocated with less funds than the request endorsed by its Management Board in January 2019, what will be the sources of its additional resources. **Do you estimate that for this purpose the European Commission is willing/ready to allocate/include additional funds in its revised proposal regarding the new Multiannual Financial Framework (2021-2027) which is under discussion at this stage?***

Europol's reply

Europol did not receive additional funding for the Innovation Lab, which was set up through the temporary re-allocation of resources from other areas. Europol is not aware whether the Commission would include additional funds for this specific purpose. However, it would be important for Europol to rely on sufficient resources to carry out all its tasks, including the Innovation Lab. Furthermore, the Innovation Lab was promoted by the JHA Council in October 2019 with the understanding that, being a multi-agency endeavour, other EU JHA agencies would provide human resources to support the functioning of the Lab and now the EU Innovation Hub. Discussions on this topic have been ongoing since December 2019 with several relevant EU JHA agencies. The Lab and the Commission have also invited EU MS to deploy SNEs to the Lab in particular to work on specific projects.

3. Europol's replies to JPSG comments to the "reporting on Europol External Relations (September 2019-June 2020)"

Request for clarifications by MEP Clare DALY

- *Paragraph: 'Europol continued its cooperation with Israel established by a Working Arrangement signed in 2018. Israel has its Liaison Bureau in Europol Headquarters since September 2018 and cooperation has been assessed very positively by both Europol operational units and the Liaison Officers' community. Israel is connected to SIENA. There has been active engagement in a number of operations, for example focusing on CEO fraud, crypto trading, investment scams and numerous contacts of a more strategic nature'*

Questions:

- *Could you please provide a full list of third-countries and authorities connected to SIENA, particularly those with which Europol does not have 'operational agreements' but only 'working arrangements'? (Europol website only mentions Australia, Canada, Norway, Liechtenstein, Moldova, Switzerland and the United States)*
- *Could you please provide us with more information and some examples on the type of 'active engagement' of Israel National Police in those operations? Could you please clarify whether personal data has been transferred to Israel (or to other third-countries with which there is no operational agreement in place)? If that is the case, on which legal basis?*
- *On which legal basis was the connection to SIENA granted? Is the Memorandum of Understanding mentioned in Article 20 of the Working Arrangement with Israel publicly available?*
- *Could you please provide detailed information on the functioning of SIENA? In particular, could you describe how it can prevent that personal data is exchange in the absence of an adequate legal basis?*

In line with the **Working Arrangement**, Europol only shares non-personal information such as threat analyses. Europol does not transfer personal data to Israeli law enforcement partners. The majority of EU MS investigations with links to Israel, supported by Europol within the remit of its mandate, relate to economic, financial and cyber-crimes such as CEO fraud, international

investment fraud, money laundering and crypto trading. A common example are large-scale CEO fraud cases where EU based companies are targeted by OCGs operating from Israel that can only be tackled through an internationally coordinated investigation in a meaningful way. The level of cooperation of the Israel National Police is satisfactory and relies on the work of the Liaison Bureau.

Article 20 of the Working Arrangement establishing cooperative relations between the law enforcement authorities of Israel and Europol foresees the possibility for the establishment of a secure communication line. The Memorandum of Understanding on the secure communication line between Israel and Europol was signed on 17 July 2018. It is not a publicly available document, neither are the MoUs with other third partners on the secure line or the Liaison Officer Agreements. Europol has published on its website the previously concluded Strategic and Operational Agreements, as well as the Working Arrangements but not the implementing instruments. From a public access point of view, releasing the MoU to the public could jeopardize the interests protected in Article 4 of the MB Rules on Public Access. The MoU on the secure line contains sensitive information on the obligations of the parties, certain technical aspects and more importantly security and confidentiality aspects. Releasing this information to the public could be detrimental to the cooperation Europol has developed with third partners, which is essential to the activities of Europol and the fulfilment of Europol's tasks.

SIENA may be used by Member States and Third parties to exchange strategic and operational information up to and including the level of EU CONFIDENTIAL or its national equivalent for the objective of preventing and combating other forms of crime falling outside of Europol's mandate where such exchanges exclude Europol. It may be used by Member States and Third Parties for bi – and multilateral information exchange without the direct involvement of Europol. SIENA also facilitates the exchange of so – called Swedish Initiative requests (Council Framework Decision 2006/960/JHA). The SIENA users shall take appropriate measures to protect information subject to the requirement of confidentiality which is exchanged through SIENA. The general principles of Confidentiality of Europol information includes: the obligation of discretion and confidentiality, limiting access to information to authorised personnel, data protection requirements as far as personal data are concerned and general technical and procedural measures to safeguard the security of the system. Any access to SIENA is fully traceable and logged for data protection auditing purposes. Action performed in SIENA are logged as defined in the SIENA Data Protection Requirements. Member States and Third Parties shall audit their own users for the compliance of information exchange within their respective laws and regulations, Third Parties in addition to any obligations arising from the cooperation agreement with Europol. SIENA data protection log-files shall be available at all times to the EDPS, the DPO at Europol and the national supervisory authorities concerned. Third Parties with whom Europol has concluded a strategic cooperation agreement under Council Decision 2009/371/JHA (prior to 1 May 2017) do not have access to the data stored by Europol nor to reach the personal data exchange.

Third Parties in SIENA:

- *United Arab Emirates **
- *Brazil **
- *European Police College*
- *China **
- *European Commission*
- *European Central Bank*

- *European Centre for Disease Prevention and Control*
- *EMCDDA*
- *Civilian European Security and Defence Policy Missions*
- *EU Intelligence Analysis Centre*
- *FRONTEX*
- *Israel*
- *Japan*
- *New Zealand*
- *European Anti-Fraud Office*
- *Russian Federation (off-line)**
- *Turkey*
- *UN Office on Drugs and Crime*
- *World Customs Organisation*

* Those entities are not yet active, as arrangements have not been finalized yet.

* Third Parties not having direct access to SIENA are so called offline Third Parties. All SIENA transactions to and from offline Third Parties are operated by the Europol Operational Centre.

Request for clarification by the Cypriot delegation to the JPSG

- *Taking into consideration Europol's mandate to combat firearms smuggling and its experience with supporting EU military operations, but also its activity in combating human smuggling and trafficking, will **Europol have any participation in operation EU NAVFORMED Irini?***

As one of secondary tasks (also oil smuggling, training of Libyan coastguard) of EUNAVFOR MED IRINI shall support the detection and monitoring of human smuggling and trafficking networks through information gathering and patrolling carried out by aerial assets above the high seas, in the agreed Area of Operation. In carrying out this task, EUNAVFOR MED IRINI may collect and store, in accordance with applicable law, data on human smuggling and trafficking, including crimes relevant to the security of the operation, which it may transmit to the relevant law enforcement authorities of Member States and to competent Union bodies. Europol will continue cooperation with EUNAVFOR MED IRINI in the same manner as with EUNAVFOR MED SOFIA, that is through Clearing House operating as a part of European Migration Smuggling Centre.

- *In 2019, Cyprus requested Europol's support to control the increasing irregular migrant flows into the country, which has proved to be very important in efforts to identify persons with a terrorist background. We wish, however, to reiterate, once again, that the overwhelming majority of irregular migrants arrive in Cyprus from Turkey by sea or through the areas of the Republic of Cyprus under Turkish military occupation and are victims of smuggling networks. In view of the Commission's new proposals regarding asylum and migration policy, **what further role could Europol assume, in cooperation with FRONTEX or national law enforcement authorities, to disrupt migrant smuggling networks?***

Europol will continue supporting Cyprus through the deployment of Guest Officers. At the time of the drafting, five Europol's Guest Officers were stationed in Cyprus. In addition, the Joint Liaison Task Force Migrant Smuggling and Tracking in Human Beings (JLT) will remain an important tool to respond to the growing proliferation and sophistication of transnational criminal activities by strengthening coordinated operations at working level. Through liaison officers at the JLT, Member States are able to drive and stimulate intelligence-led

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coordinated action against OCGs active in migrant smuggling and human trafficking. In order to facilitate cooperation with relevant Cyprus authorities, a Seconded National Expert has been deployed to Joint Operational Team Mare, which comprises specialists seconded from seven Member States to exchange information in real time to disrupt smuggling networks operating from Turkey. Cooperation with Turkey in the area of migrants smuggling remains limited due to the absence of international agreement, which would allow exchange of personal data between relevant Turkish authorities and Europol.