



WORKING ARRANGEMENT

BETWEEN

THE EUROPEAN UNION AGENCY FOR FUNDAMENTAL RIGHTS (FRA)

AND

THE EUROPEAN AGENCY FOR THE OPERATIONAL MANAGEMENT OF LARGE-SCALE IT SYSTEMS

IN THE AREA OF FREEDOM, SECURITY AND JUSTICE (eu-LISA)

The European Union Agency for Fundamental Rights (hereinafter referred to as FRA) represented for the purposes of signature of this Working Arrangement by its Director, Mr Michael O'Flaherty,

and

The European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice (hereinafter referred to as eu-LISA) represented for the purposes of signature of this Working Arrangement by its Executive Director, Mr Krum Garkov,

(hereinafter collectively referred to as "the Parties", or individually as the "Party"),

Having regard to Regulation (EU) 168/2007 of the European Parliament and of the Council of 15 February 2007, establishing a European Union Agency for Fundamental Rights, in particular Article 7 read together with Recital 16 concerning cooperation with relevant European Union agencies,

Having regard to Regulation (EU) 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, and in particular Article 17 read together with Recital 21 concerning cooperation with the European Union Agency for Fundamental Rights,

Whereas:

- (1) The European Union recognised the rights, principles and freedoms set out in the Charter of Fundamental Rights in the European Union, which includes the right to the protection of private life, the protection of personal data and the right to non-discrimination.
- (2) The obligation to respect fundamental rights in the implementation and operation of large-scale IT systems in the Area of Freedom, Security and Justice is laid down in the following legal instruments, governing operation and use of the three large-scale IT systems under eu-LISA's mandate:
 - Regulation (EU) 603/2013 of the European Parliament and of the Council of 26 June 2013, establishing the "Eurodac" system for the comparison of fingerprints, in particular Recital 50;
 - Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006, in particular, Recital 26, and Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II), in particular Recital 34;

- Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation), in particular Recital 24, and Council Decision 2008/633/JHA of 23 June 2008, in particular Recital 19;
 - Regulation (EU) 1077/2011 of the European Parliament and of the Council of 25 October 2011 establishing a European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice, in particular Recital 31.
- (3) The Strategic Guidelines for the development of the area of Freedom, Security and Justice adopted by the European Council on 26-27 June 2014 stress the need to effectively implement and consolidate the legal instruments and policy measures in place, and recall that intensifying operational cooperation while using the potential of Information and Communication Technologies' innovations and enhancing the role of the different EU agencies will be key in this regard.
- (4) The Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions on the European Agenda on Security of 28 April 2015 sets out the need for all actors involved, EU institutions and agencies, Member States and national authorities, to work together based on five key principles the first of which is the need to ensure full compliance with fundamental rights of security measures. It also recalls the important role of EU bodies such as the European Agency for Fundamental Rights in assisting EU institutions and other EU agencies to uphold and promote our values.
- (5) The Council conclusions on the Renewed European Union Internal Security Strategy for the period 2015-2020 approved by the Council of the European Union on 16 June 2015 emphasize the crucial importance of ensuring full compliance with fundamental rights, including those related to privacy, personal data protection, confidentiality of communication and the principles of necessity, proportionality and legality for all measures and initiatives taken to protect the internal security of the European Union and acknowledge the important role of the JHA agencies in contributing to the internal security of the European Union.
- (6) In line with the Common Approach on EU decentralised agencies and its roadmap, enhanced cooperation between FRA and eu-LISA should create synergies and foster coherence among the agencies' actions in fulfilling their respective mandates.
- (7) It is within the common interest of the Parties to establish a Working Arrangement in the areas of mutual interest.

Have agreed as follows:

Article 1

Purpose

The purpose of this Working Arrangement is to establish a cooperation framework between FRA and eu-LISA identifying the areas of cooperation based on common interests and setting the objectives and principles of such cooperation.

Article 2

Areas of cooperation

The Parties cooperate by exchanging expertise and best practices developed in the implementation of their respective mandates, in particular, in the following areas:

- a. Exchange of information
- b. ICT related matters
- c. Training to Member States and JHA agencies which are users of the IT systems
- d. Strategic and Administrative matters
- e. Other areas identified as mutually important

Article 3

Exchange of information

1. The Parties agree to cooperate in exchanging information in relevant research related activities, in accordance with the relevant provisions of their founding Regulations, and on how to mainstream fundamental rights considerations in the design, implementation and evaluation of projects and activities.
2. The Parties agree to exchange information, analyses and reports including those relevant to the large-scale IT systems operated by eu-LISA. Such exchange must respect the relevant legislation and internal procedures of both Parties.

Article 4
ICT related matters

1. The Parties may assist each other with know-how, expertise, best practices, lessons learned and advice in technical, operational and IT security related matters. The implementation of this article shall take into account each Party's priorities and resource limitations.
2. The Parties may cooperate for the purpose of ensuring business continuity in the area of ICT. Possible activities to assist each other and create synergies in business continuity should be laid down under a separate arrangement.
3. The Parties may cooperate in order to ensure the fundamental rights dimension in IT projects.

Article 5
Training to Member States and JHA agencies which are users of the IT systems

1. The Parties agree to cooperate in the development of training materials and the delivery of training including e-learning.
2. The Parties commit to exchanging training strategies, methodologies, training materials and plans on a regular basis, to support the development and dissemination of training materials of common interest.
3. The Parties will explore the possibilities of mutual participation in training programmes and the launching of joint training modules, if appropriate.
4. The Parties may also exchange information on trainers and experts involved in their training activities relevant to the other Party.
5. The Parties will explore the possibilities of using each other's facilities and logistical support for training activities.
6. The contribution of one Party to the training materials or activities of the other one will be duly acknowledged.

Article 6
Strategic and Administrative matters

1. The Parties agree to consult each other where relevant when preparing their strategic documents, such as work programmes, strategies and action plans, on the areas of cooperation identified in this working arrangement.
2. Each Party may, where appropriate, invite the other Party to participate in any of its planning activities to ensure consultation and coordination of the relevant activities.

3. The Parties agree to cooperate in administrative matters sharing experience, expertise and best practices including in the fields of human resource management, management of premises, internal and external audits and finance and procurement.

Article 7

Cooperation with other partners

The Parties shall exchange information on their relations with other partners, in particular EU Institutions, other bodies and agencies, Member States and international organisations in connection with the activities relevant to each other's mandate.

Article 8

Data protection and access to documents

1. Any personal data related to the implementation of this Working Arrangement shall be processed pursuant to Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2001 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data.
2. Access to documents will be processed in accordance with Regulation (EC) 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents.

Article 9

Confidentiality and Security

1. Each Party undertakes to keep confidential any information, document or other material provided by the other Party, not to disclose it to third parties without a prior written consent of the disclosing Party, and not to use any such information for any purpose other than the implementation of this Working Arrangement.
2. Each Party shall ensure that information, including EU classified information (EUCI), provided or exchanged under this Working Arrangement is protected according to their respective security rules, which are both based on the security rules and principles as set out in Commission Decision 2015/444¹ and the security principles relating to the processing of non-classified sensitive information as adopted

¹ 2015/444 (EU, Euratom) Commission Decision of 13 March 2015 on the security rules for protecting EU classified information.

and implemented by the Commission without prejudice to the role of their respective Management Boards to put these security principles in practice.

3. The Party supplying the information will be responsible for the choice of the appropriate confidentiality level for the information and shall ensure that the level is clearly indicated. The receiving Party will take appropriate measures to ensure the required level of protection.
4. Both Parties also agree to cooperate in the field of security in particular with regard to measures necessary for the protection of EU classified information or other sensitive information by means of consultation, mutual support or exchange of best practices.

Article 10

Expenses

The Parties shall bear their own expenses which may arise when implementing the present Working Arrangement unless otherwise agreed on a case-by-case basis.

Article 11

Contact points

1. For the implementation of this Working Arrangement the contact point of FRA is the Head of Sector Asylum, Migration and Borders.
2. For the implementation of this Working Arrangement, the contact point of eu-LISA is the Head of the General Coordination Unit.
3. The contact points may be amended through an exchange of letters.

Article 12

Evaluation of the cooperation

The Parties will assess annually the progress made in the implementation of this working arrangement and discuss further cooperation activities.

Article 13

Settlement of disputes

Any disputes which may emerge in connection with the interpretation or application of the present Working Arrangement shall be settled by means of consultations and negotiations between the representatives of the Parties.

Article 14

Amendments and supplements to the Working Arrangement

1. This Working Arrangement may be amended and supplemented at any time by mutual consent between the Parties.
2. The Parties shall enter into consultations with respect to possible amendments of this Working Arrangement at the request of either Party.
3. All amendments and supplements shall be done in writing. They will enter into force on the date they are signed by the last Party.

Article 15

Termination

This Working Arrangement may be terminated in writing by either Party by giving three months' notice.

Article 16

Entry into force

This Working Arrangement enters into force on the day following its signature by both Parties.

Done in Vienna on 6 July 2016 in duplicate copy in the English language.

For FRA,

For eu-LISA

The Director,
Michael O'FLAHERTY

The Executive Director
Krum GARKOV