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ANNEX

ANNEX

to the

Commission Decision

on the adoption of a Revised Memorandum of Understanding between the European Commission and the European Union Agency for the Operational Management of Large-Scale IT systems in the Area of Freedom, Security and Justice (eu-LISA)

REVISED MEMORANDUM OF UNDERSTANDING
BETWEEN

THE EUROPEAN COMMISSION
(DIRECTORATE-GENERAL MIGRATION AND HOME AFFAIRS)

AND

THE EUROPEAN UNION AGENCY FOR THE OPERATIONAL MANAGEMENT OF
LARGE-SCALE IT SYSTEMS IN THE AREA OF FREEDOM, SECURITY AND JUSTICE
(eu-LISA)

The European Commission ('the Commission'), represented for the purposes of signature of this Revised Memorandum of Understanding by Director-General Paraskevi Michou (Directorate-General Migration and Home Affairs)

and

the European Union Agency for the Operational Management of Large-Scale IT Systems in the Area of Freedom, Security and Justice (eu-LISA) ('the Agency'), represented for the purposes of signature of this Revised Memorandum of Understanding by its Executive Director, Krum Garkov

('the Parties')

Whereas:

1. The Commission adopted on 11 June 2014 Decision C(2014) 3486 on a Memorandum of Understanding between the European Commission and the Agency ('the Memorandum of Understanding') as required, in particular, by Article 7 of Regulation (EU) No 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. The Memorandum of Understanding was signed by the Director-General for Home Affairs and by the Executive Director of the Agency on 18 June 2014 and entered into force on the same day.
2. Regulation (EU) No 1077/2011 was repealed and replaced by Regulation (EU) 2018/1726 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for the Operational Management of Large-Scale IT systems in the area of Freedom, Security and Justice (eu-LISA), and amending Regulation (EC) No 1987/2006 and Council Decision 2007/533/JHA and repealing Regulation (EU) No 1077/2011 ('the Agency Regulation').
3. Article 41(2) of the Agency Regulation provides that the Agency shall cooperate with the Commission within the framework of a working arrangement laying down operational working methods.
4. It is therefore necessary to amend the Memorandum of Understanding in order to adapt it to the new mandate of the Agency.
5. The main objective of this Memorandum of Understanding is to lay down those operational working methods and to establish mechanisms for efficient and transparent liaison between the Parties by defining the administrative aspects of their cooperation.

6. Without prejudice to the participation of the Commission in the Management Board and the Advisory Groups of the Agency, close cooperation and coordination between both Parties is essential to ensure coherence between the legislative work of the Commission and the decisions and work of the Agency. A regular and effective flow of information from the Agency to the Commission is also necessary to keep the latter aware of the administrative and operational developments on the side of the Agency. The Commission should keep the Agency informed on developments related to the Agency's mandate and/or of interest to the latter.
7. On 19 July 2012 the European Parliament, the Council and the Commission agreed on a joint statement and a common approach on the EU's decentralised agencies providing for improved cooperation between these agencies and the Commission in a number of areas.
8. Article 11(1) of the Agency Regulation provides that the Agency shall carry out all the tasks relating to the communication infrastructure of the systems conferred on it by the Union legal acts governing the systems, with the exception of those systems that make use of EuroDomain, a secure communication infrastructure provided by TESTA-ng, for their communication infrastructure. For the latter systems, the tasks regarding the communication infrastructure, including the operational management and security, are to be divided between the Agency and the Commission and the Commission shall retain responsibility for the tasks in relation to the implementation of the budget, acquisition and renewal and contractual matters. Article 11(1) stipulates that in order to ensure coherence between the exercise of their respective responsibilities, operational working arrangements shall be concluded between the Agency and the Commission and reflected in a Memorandum of Understanding. Those operational working arrangements are contained in the present Memorandum of Understanding and also in the Memorandum of Understanding between the European Union and the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice on the quality and security requirements related to the connection to the TESTA-ng network set up under the ISA² programme - Interoperability solutions for public administrations, businesses and citizens¹. The latter Memorandum of Understanding was signed on 24 September 2015 by the Director of Directorate C of the Directorate-General for Informatics and the Executive Director of the Agency,

Have agreed on the following:

**TITLE I
ADMINISTRATIVE COOPERATION**

Chapter 1

***Article 1
Central Coordination point and channels of communication***

1. The Directorate-General for Migration and Home Affairs ('DG HOME') shall be the central coordination point for the relations between the Commission and the Agency.
2. The formal exchange of documents shall be ensured by the Executive Director of the Agency and the Director in charge of the Agency in DG HOME, unless otherwise specified in this Memorandum. Depending on the subject matter, copies of these documents shall

¹ The programme was adopted in November 2015 by the European Parliament and the Council of European Union and is running from 1 January 2016 until 31 December 2020.

also be sent to the contact persons for the related tasks listed in Annex 1.

3. With regard to other information, this is exchanged both ways between the heads of the relevant departments and units in the Agency and the Head of Unit in DG HOME in charge of the Agency and the contact persons for the related tasks listed in Annex 1.
4. To ensure an efficient communication, documents are preferably transmitted by electronic means unless other requirements for official documents apply.

Article 2 *Meetings*

1. The coordination of the activities of the Agency and the Commission is supported by bilateral meetings or videoconferences, as appropriate, at various levels:
 - (a) high level meetings are organised at least once every two months at Director level to communicate progress being made concerning the deliverables of the Agency and to raise any comments or concerns. They are called alternatively by the Commission and the Agency;
 - (b) regular management level meetings between the Departments and Units of the Agency concerned and the Head of Unit of DG HOME in charge of the Agency, to be called by either Party;
 - (c) other meetings may be organised at the appropriate level at the request of either Party.
2. The agenda of the meeting should be proposed by the Party calling the meeting and agreed by the Parties, as early as possible, at least one week before the date of the meeting.

Chapter 2 Consultation and information

Article 3 *Exchange of information and consultation*

1. Both Parties inform each other by exchange of letters, on the items of their respective work programmes which are of main relevance for either Party. With regard to these work items, the Commission provides the Agency with information needed in relation to its work, such as reports of studies and working groups (minutes).
2. The Commission may draw on the Agency's expertise when preparing new legislative proposals, communications, implementation reports, green papers and other documents which it intends to publish in areas relevant to the activities of the Agency and shall in any event inform the Agency thereof in advance.
3. The Agency shall also inform the Commission on any other issue required by the latter for the fulfilment of its responsibilities and the Commission shall inform the Agency on any issue which is required by the latter and is related to the mandate of the Agency and/or of interest to the latter regarding administrative issues.

Article 4 *Information on Studies*

The Parties shall inform each other about all studies commissioned in the area of large-scale IT systems which involve the activities of the Agency. This includes information on planned studies at an early stage to avoid possible duplications. Both Parties shall consult each other on the draft terms of reference of such studies before the launching of the call for tenders or the granting of the contract and shall provide each other with the possibility to participate in the evaluation committee.

Article 5
Exchange of administrative documents

1. The Agency shall send the Commission copies of:
 - (a) programming documents containing multi-annual and annual programming referred to in Article 44 of the Agency Regulation and Article 32 of the Financial Regulation of the Agency;
 - (b) its Annual Activity Report;
 - (c) the Agency and the systems' security plans, the Business Continuity Plans and Disaster Recovery Plans;
 - (d) documents required for the establishment of the budget in accordance with Article 45 of the Agency Regulation and Article 33 of the Agency's Financial Regulation and with the Commission budgetary procedure as laid down in the yearly budgetary circular;
 - (e) documents required for the year-end accounting closure in accordance with the Commission's closure instructions;
 - (f) the provisional and final Annual Accounts;
 - (g) any other documents which the Commission requires which are relevant for the fulfilment of its responsibilities.

2. The Commission shall send the Agency copies of:
 - (a) the financial and budgetary programming documents of DG HOME and
 - (b) any other document which is required by the Agency and is related to the mandate of the Agency and/or of interest to the latter regarding administrative issues.

Article 6
Arrangements concerning crisis and security incidents management and business continuity

1. Without prejudice to the rules on incidents management laid down in the Agency's security plans for SIS, VIS and Eurodac, in Commission Decision 2010/261/EU on the Security Plan for Central SIS II and the Communication Infrastructure, and in the security plans for EES, ETIAS, ECRIS-TCN and for any other systems and interoperability components entrusted to the Agency, the Executive Director or the Duty Officer of the Agency shall inform the Director and the Head of Unit in DG HOME in charge of the Agency as well as the Director in charge of ECRIS-TCN in DG JUST without delay of any crisis in the seat of the Agency or any of its technical sites and of any incident that could have an impact on

the availability, confidentiality and integrity of data or on the quality or the availability of service to the systems' users. The necessary measures shall be adopted in close consultation between the Agency and DG HOME.

2. The Director or the Head of Unit in DG HOME in charge of the Agency or, where relevant, the Director in charge of ECRIS-TCN in DG JUST, shall inform the Executive Director or the Duty Officer of the Agency of any incident which could affect the Agency.

Article 7
External communications

1. The Agency shall exchange information and coordinate its external communication policy with the Commission to ensure consistency thereof. This includes information on the Agency's yearly communication plan and major events with the press.
2. In the event of a significant issue likely to attract negative media coverage or any other incident related to the Agency's activities requiring crisis communication, the Agency and the Commission shall immediately inform each other and shall develop an agreed communication response.

Chapter 3
Relations with Union institutions, bodies, offices and agencies

Article 8
Relations with European institutions and bodies

1. The Agency shall inform the Commission beforehand when it intends to participate in formal meetings of the European Parliament, of the Council and of the European External Action Service.
2. When the Agency submits formal contributions, presentations and statements intended for discussion as well as formal notes to the European Parliament, to the Council, or the European External Action Service, it shall provide them at the same time to the Commission.
3. The Agency always sends to the Director and the Head of Unit in DG HOME in charge of the Agency and, where relevant, to the Director in charge of ECRIS-TCN in DG JUST a copy of incoming and outgoing formal notes from/to other Commission services (other Directorates in DG HOME and other Directorates-General).
4. In accordance with Article 41(4) of the Agency Regulation, the Commission shall be consulted on any draft working arrangement with other Union bodies, offices and Agencies. The Management Board shall authorise such working arrangements, taking into account the opinion of the Commission. Where the Agency does not follow the Commission's opinion, it shall justify its reasons.

Chapter 4
Relations with third States, international organisations and other relevant entities

Article 9
Framework for external relations

1. The Commission is responsible for setting the framework and the guidelines for external relations and horizontal issues as far as cooperation with third countries and international organisations are concerned. The Commission shall keep the Agency informed about any external relations issues relevant to the Agency.
2. In accordance with Article 42(2) of the Agency Regulation, the detailed rules for the participation in the work of the Agency by countries associated with the implementation, application and development of the Schengen acquis and with Dublin- and Eurodac-related measures shall be specified in an arrangement between the European Union and the abovementioned countries including provisions on financial contributions, staff and voting rights.
3. The Agency may enter into working arrangements establishing relations with international organisations and other relevant entities as referred to in Article 43 of the Agency Regulation, where so provided by a Union legal act, in so far as it is necessary for the performance of its tasks. Such working arrangements may be concluded only with the authorisation of the Management Board after having received the Commission's prior approval.

Article 10
Regular meetings between the competent units

The responsible contact persons ensure that relevant information in this field is exchanged. Regular meetings between the contact persons are set up as appropriate to review the activities in the related sector. In particular, the participation in meetings with third countries and with international organisations and other relevant entities as referred to in Article 43 of the Agency Regulation is co-ordinated with the Commission.

Chapter 5
Practical arrangements concerning the main tasks designated to the Agency

Article 11
Operational Management of the systems and the interoperability components

1. Without prejudice to Article 6 and Article 23(2), the Agency shall inform the Director and the Head of Unit in DG HOME in charge of the Agency as well as the Director in charge of ECRIS-TCN in DG JUST without delay of any major incident related to the operations of the systems and of the interoperability components under its management.
2. A major incident is an incident that either makes a system or an interoperability component unavailable to one or several Member States or has a serious impact on the availability of the system or of the interoperability component for one or several Member States to perform their day-to-day operations.

Article 12
Security Rules on the protection of classified and sensitive non-classified information and exchange of personal data

1. In accordance with Article 37 of the Agency Regulation and in order to ensure coherence between the Agency's security rules on the protection of classified and sensitive non-

classified information and the Commission's security rules and principles on which these Agency's rules should be based, the Commission shall give its prior approval to the Agency's draft rules for protecting European Union Classified Information (EUCI) and sensitive non-classified information before their adoption by the Management Board.

2. The Commission shall also give its prior approval to any administrative arrangement on the exchange of classified information with other Union bodies, offices, agencies or the relevant authorities of a third State associated with the implementation, application and development of the Schengen acquis and with Dublin- and Eurodac-related measures, or in the absence of such arrangement, to any exceptional ad-hoc release of EUCI to other Union bodies, offices, agencies or the relevant authorities of a third State associated with the implementation, application and development of the Schengen acquis and with Dublin- and Eurodac-related measures.
3. Pursuant to Article 51 of Commission Decision 2015/444 of 13 March 2015 on the security rules for protecting EU classified information², where the Commission or one of its departments determines that there is a need to exchange EUCI with the Agency, the necessary steps shall be taken to establish an appropriate administrative arrangement. EUCI shall only be exchanged with the Agency once such an arrangement is in place and that there are sufficient guarantees that the Agency applies equivalent basic principles and minimum standards for the protection of classified information.
4. In accordance with Article 41(5) of the Agency Regulation, the Commission shall use information received from the Agency only within the limits of its competence and insofar as it respects fundamental rights, including data protection requirements. Onward transmission or other communication of personal data processed by the Agency to the Commission shall be subject to specific working arrangements regarding the exchange of personal data and subject to the prior approval by the European Data Protection Supervisor. Any transfer of personal data by the Agency shall be in accordance with Articles 35 and 36 of the Agency Regulation.

Article 13 *Training*

1. The Agency is responsible for tasks relating to training on the technical use of SIS and on measures for improving the quality of SIS data³, in particular for SIRENE staff and training of experts on the technical aspects of SIS in the framework of Schengen evaluation.
2. The Commission remains responsible for the implementation and interpretation of the SIS legal instruments and the SIRENE Manual. There is therefore a need for effective coordination between the Agency, CEPOL, which is currently responsible for delivering SIS and SIRENE training, largely on business processes, and the Commission to ensure that the content and organisation of training is provided in an effective and coherent fashion.
3. The Agency shall sign a working arrangement with CEPOL⁴, on a partnership on the design and delivery of training on the use of SIS, in particular for SIRENE staff and training of experts on the technical aspects of SIS in the framework of Schengen

² OJ L 72, 17.3.2015, p. 53.

³ Training on the technical use of SIS and on measures for improving the quality of SIS data if foreseen in Article 15(5) of the new SIS Regulations (EU) 2018/1860, 2018/1861 and 2018/1862 and shall enter into force on the date foreseen by a Commission Decision to be adopted no later than 28 December 2021.

⁴ A working arrangement was signed between CEPOL and eu-LISA on 20 November 2013.

evaluation.

4. The Commission shall be consulted on any working arrangements or cooperation agreements with other Agencies on training matters before adoption.
5. The Commission shall also be informed on the annual training schedules and consulted on training materials to be used in the Agency's external training programmes on the technical use of SIS, VIS, Eurodac, EES and ETIAS, ECRIS-TCN and the ECRIS reference implementation and on any other systems and interoperability components it would be entrusted with in the future by relevant Union legal acts.

Article 14 ***Evaluation Report***

1. In accordance with Article 39 of the Agency Regulation, by 12 December 2023 and every five years thereafter, the Commission shall evaluate, in accordance with the Commission's guidelines, the performance of the Agency in relation to its objectives, mandate, locations and tasks. The Commission shall consult the Management Board in the process, as part of its general stakeholder consultation.
2. The Management Board may issue recommendations regarding amendments to the Agency Regulation to the Commission.
3. The Commission shall report to the European Parliament, the Council and to the Management Board on the findings of the evaluation.
4. The Executive Director shall ensure adequate follow-up to the findings and recommendations stemming from the retrospective evaluation. The Executive Director shall prepare an action plan following-up on the conclusions of the retrospective evaluations and report on progress at least once a year to the Management Board.

Article 15 ***Monitoring of Research***

1. The Agency shall inform the Commission on developments in research relevant for the operational management of SIS II, VIS, Eurodac, the EES, ETIAS, ECRIS-TCN and other large-scale IT systems entrusted to it, on a regular basis and at least once a year.
2. Where the Commission has delegated the relevant powers to it, the Agency shall contribute to the implementation of the parts of the European Union Framework Programme for Research and Innovation that relate to large-scale IT systems in the area of freedom, security and justice and inform the Commission, on a regular basis and at least once a year, on progress thereof, without prejudice to specific reporting requirements which may apply in relation to the Programme's implementation.

Article 16 ***Pilot Projects and Proofs of Concept***

The Agency shall regularly inform the Commission on progress of any pilot project or proof of concept which it would have been requested to carry out by the Commission or the Council.

Article 17

Other decisions of the Agency requiring consultation or prior approval by the Commission

1. In accordance with Article 10 of the Agency Regulation, technical solutions requiring duplication of the systems or duplication of components of a system shall only be implemented where an independent impact assessment and cost-benefit analysis to be commissioned by the Agency has been carried out and following the consultation of the Commission and a positive decision of the Management Board.
2. Pursuant to Article 16(2) of the Agency Regulation, requests from Member States for ad-hoc support shall be submitted to the Commission, which, subject to its positive assessment that such support is required by extraordinary security or migratory needs, shall transmit it, without delay to the Agency which shall inform the Management Board. Pursuant to Article 16(4) of the Agency Regulation, a group of at least five Member States may entrust the Agency with the task of developing, managing or hosting a common IT component to help them in implementing technical aspects of obligations deriving from Union law on decentralised systems in the area of freedom, security and justice, only after prior approval by the Commission and a positive decision of the Management Board.
3. In accordance with Article 17(5) of the Agency Regulation, should it become necessary for the Agency to establish a second technical site either in Strasbourg or in Sankt Johann im Pongau, or in both locations, as required, in order to host the systems, such need should be justified on the basis of an independent impact assessment and cost-benefit analysis. The Management Board shall consult the Commission and take into account its views before notifying the budgetary authority of its intention to implement any project related to property in accordance with Article 45(9) of the Agency Regulation.
4. In accordance with Article 19 of the Agency Regulation, the following decisions of the Management Board shall require the prior approval, agreement or consultation of the Commission:
 - adoption of necessary implementing rules for giving effect to the Staff Regulations in accordance with Article 110 of the Staff Regulations (prior agreement by the Commission is required) – Article 19(1)(n);
 - adoption of the Single Programming Document (the Management Board must take into account the opinion of the Commission) – Article 19(1)(r);
 - adoption of the Financial Rules applicable to the Agency (the Management Board must consult the Commission and any departure from the Framework Financial Regulation requires prior consent by the Commission) – Article 19(1)(v) and Article 49.
5. In accordance with Article 24(5) of the Agency Regulation the Executive Director shall obtain the prior consent of the Commission, the Management Board and the Member State in question before establishing a local office in one or more Member States.

Chapter 6

Reporting on resources issues

Article 18

Management of financial transfers

All modalities concerning financial transfers from the Commission to the Agency are laid down in the separate Memorandum of Understanding for the Management of Financial Transfers between the European Commission (DG HOME) and eu-LISA of 28 October 2014.

Article 19
Staff

1. The Agency shall keep the Commission informed on the development of its human resources policy, through the information exchanged with its Management Board.
2. The Agency shall provide explanations if it decides not to fully take into account the Commission's opinion on the resource programming included in the Single Programming Document.
3. The Agency and the Commission (DG HOME and Directorate-General Human Resources and Security) shall meet once a year unless the Parties decide otherwise to discuss staff policy issues and HR strategic matters.

TITLE II
DIVISION OF TASKS AND OPERATIONAL WORKING ARRANGEMENTS AS
REGARDS THE COMMUNICATION INFRASTRUCTURE

Article 20

Division of tasks between the Agency and the Commission as regards the communication infrastructure

1. In accordance with Article 11 of the Agency Regulation and the relevant provisions of the legislative instruments⁵, the Agency shall carry out all the tasks relating to the communication infrastructure of the systems conferred on it by the Union legal acts governing the systems, with the exception of those systems entrusted to it that make use of the EuroDomain for their communication infrastructure. In the case of systems that make use of the EuroDomain, currently only Eurodac and ECRIS-TCN, the responsibility for the communication infrastructure shall remain divided between the Agency and the Commission⁶. The Agency is responsible for supervision, security and coordination of relations between the Member States and the network provider for the communication infrastructure for Eurodac, ECRIS-TCN and any other systems using the EuroDomain⁷. The Commission remains responsible for all other tasks relating to the communication infrastructure of Eurodac, ECRIS-TCN and any future systems using the EuroDomain, in particular tasks relating to the implementation of the budget, acquisition and renewal and contractual matters⁸.

⁵ Article 15(2) of Regulation (EC) No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System (SIS II) and Article 15(2) of Council Decision 2007/533/JHA of 12 June 2007 on the establishment, operation and use of the second generation Schengen Information System (SIS II) as amended by Regulation (EU) 2018/1726 (the Agency Regulation); Article 26(2) of Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) as amended by Regulation (EU) 2017/2226 establishing an Entry/Exit System (EES); Article 37(3) of Regulation (EU) 2017/2226 establishing EES and Article 74(1) of Regulation (EU) 2018/1240 establishing ETIAS.

⁶ Article 4 of Regulation (EU) No 603/2013 on the establishment of 'Eurodac' and Article 11 of Regulation (EU) 2019/816 establishing ECRIS-TCN.

⁷ In practice, the coordination of relations between the Member States and the network provider as regards EuroDomain is the responsibility of the Commission. These three tasks are also the responsibility of the Agency with regard to the communication infrastructure of SIS, VIS, EES and ETIAS.

⁸ These tasks are the responsibility of the Agency with regard to the communication infrastructure of SIS, VIS, EES and ETIAS.

The Agency is responsible for the security measures, including a security plan and a business continuity and disaster recovery plan, with regard to the communication infrastructure of VIS, Eurodac, EES, ETIAS and ECRIS-TCN. The Agency is also responsible for the security measures in respect to the exchange of supplementary information through the communication infrastructure of SIS⁹. However, until the entry into application of Article 16 of the new SIS legal acts¹⁰, the Commission remains responsible for adopting the security measures, including a security plan, in relation to the communication infrastructure¹¹. The Commission is also responsible for the adoption of implementing acts setting out the technical requirements for the communication infrastructure of SIS¹². With regard to ETIAS, the Commission shall, by means of an implementing act, adopt a model security plan and a model business continuity and disaster recovery plan¹³.

2. The tasks of the Agency as regards the communication infrastructure are the following:

(a) supervision, which includes:

- a. analysis and review of operational reports, such as the monthly SLA reports, the daily network reports, the weekly network incidents reports;
- b. the organisation of regular meetings related to the operations and the action follow-up with the provider;
- c. requests for change and technical parts of service orders;

(b) security, which includes, but is not limited to:

- a. the approval of crypto cards;
- b. the approval of change requests;
- c. the review of the monthly security report;
- d. the handling of security incidents;
- e. the protection of the confidentiality of data traversing the communications network through encryption technologies under the full control of the Agency. In accordance with Article 11(5) of the Agency Regulation and without prejudice to existing contracts, the management of the encryption keys shall not be outsourced to any external private-sector entity;

⁹ Article 16(2) of the SIS II Regulation and Decision.

¹⁰ Regulation (EU) 2018/1861 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters.

¹¹ Commission Decision of 4 May 2010 on the Security Plan for Central SIS II and the Communication Infrastructure (2010/261/EU) remains in force as regards the security organisation and measures (security measures) for the communication infrastructure of SIS II. It shall be repealed from the date of entry into application of Article 65 of Regulation (EU) 2018/1861 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and of Article 78 of Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters.

¹² Article 15(7) of Regulation (EU) 2018/1861 on the establishment, operation and use of the Schengen Information System (SIS) in the field of border checks and of Regulation (EU) 2018/1862 on the establishment, operation and use of the Schengen Information System (SIS) in the field of police cooperation and judicial cooperation in criminal matters. The Commission adopted the following decisions in this regard: Commission decision of 16 March 2007 laying down the network requirements for the Schengen Information System II (1st pillar) (2007/170/EC) and Commission decision of 16 March 2007 laying down the network requirements for the Schengen Information System II (3rd pillar) (2007/171/EC), which remain applicable.

¹³ Article 59(4) of Regulation (EU) 2018/1240 establishing a European Travel Information and Authorisation System (ETIAS) and amending Regulations (EU) No 1077/2011, (EU) No 515/2014, (EU) 2016/399, (EU) 2016/1624 and (EU) 2017/2226.

- (c) coordination of relations between the Member States and the provider¹⁴:
 - a. the maintenance of the contact lists in Member States;
 - b. the coordination of all network activities having an impact on a Member State;
 - (d) proposal of technical specifications as requested by the Commission in accordance with paragraph 3(b)a. below.
3. The tasks of the Commission as regards the communication infrastructure of Eurodac, ECRIS-TCN and other systems entrusted to the Agency using the EuroDomain are the following¹⁵:
- (a) tasks related to implementation of the budget;
 - (b) acquisition and renewal, which include:
 - a. tendering documents on the basis of technical specifications proposed by the Agency;
 - b. framework or specific contract signature, contractual amendments;
 - (c) contractual matters, which include:
 - a. framework or specific contract signature, contractual amendments;
 - b. the financial part of service orders;
 - c. formal acceptance of contractual deliverables such as monthly SLA penalty reports and regular reports review as foreseen by the contract, taking into account information provided by the Agency;
 - d. the organisation of regular meetings related to the contract.

Article 21

Operational working arrangements with regard to Eurodac and ECRIS-TCN and other systems using the EuroDomain

1. In order to ensure smooth execution of the contract and operational continuity, a strong coordination between the Agency and the Commission is very important.
2. The Agency and the Commission shall nominate contact persons to handle communication infrastructure related matters. Any disagreement shall be settled by the Head of the Operations and Infrastructure Unit in the Agency and the Head of Unit in DG DIGIT in charge of the EuroDomain, in close consultation with the Head of Unit in DG HOME in charge of Eurodac and the Head of Unit in DG JUST in charge of ECRIS-TCN.
3. As the contracts are managed by the Commission, but the operational needs are identified by the Agency, the Agency shall communicate its needs to the Commission. The change management process in place for the EuroDomain shall apply¹⁶.

¹⁴ In practice, this task is under the responsibility of the Commission.

¹⁵ In the case of the communication infrastructure of SIS, VIS, EES and ETIAS these tasks shall be the responsibility of the Agency.

¹⁶ As referred to in Annex VII of the Memorandum of Understanding between the European Union and the European Agency for the operational management of large-scale IT systems in the area of freedom, security and justice on the quality and security requirements related to the connection to the TESTA-ng network set up under the ISA² programme.

4. Contract renewal or amendments, once signed by the Commission and the provider, shall be sent to the Agency for information. The Commission shall request the input of the Agency for the preparation of the texts, where required.

Article 22

Regular coordination meetings on the Eurodac and ECRIS-TCN communication infrastructure and that of other systems using the EuroDomain

A coordination meeting, or videoconference, as appropriate, between the Agency and the Commission shall be held upon request of one of the Parties.

Article 23

Reporting

1. To support the Commission's tasks with regard to contractual matters related to the Eurodac and ECRIS-TCN communication infrastructure and that of other systems using the EuroDomain, the Agency shall receive monthly reports from the contractor for information.
2. The Agency informs the Director in charge of the Agency in DG HOME, the Director in charge of ECRIS-TCN in DG JUST and the Head of Unit in DG HOME in charge of the Agency of any incident related to the operation of the network of any of the systems entrusted to the Agency that could have an impact on the availability, confidentiality and integrity of data or on the quality or the availability of service to the systems' users.

Article 24

Ad hoc meetings

When needed, each of the Parties may convene a meeting, with the participation of the provider where required.

**TITLE III
FINAL PROVISIONS**

Article 25

Access to the Agency's premises by Commission staff and contractors

The Agency shall authorise Commission staff and Commission contractors to access the premises of the seat, the technical and the backup sites of the Agency as required for the exercise of the tasks related to the communication infrastructure falling under Commission responsibility or as otherwise required in the implementation of the Agency Regulation, subject to compliance with the Agency's security rules.

Article 26

Review of the Memorandum of Understanding

1. The Parties shall assess the results of the cooperation at least once a year or at the request of either Party. On the basis of this assessment, proposals for the improvement as regards cooperation measures may be made.
2. This Memorandum may be amended only by a written agreement concluded by the Parties. Amendments to this Memorandum shall enter into force on the date on which they are signed by the last Party.
3. Each Party shall keep the other Party informed of any change of the contact persons in the

Annex by email.

Article 27
Termination

This Memorandum may be terminated in writing by either of the Parties with six months' notice.

Article 28
Entry into force

The present Memorandum replaces the Memorandum of Understanding signed on 18 June 2014 on the date on which the present Memorandum is signed by the last Party.

For the Commission by delegation

Signature

Paraskevi MICHOU
Director-General

17 DEC. 2019

For the European Agency for the Operational
Management of Large-Scale IT systems

Signature

Krum GARRKOV
Executive Director

10.1.20

Annex 1: Channels of communication in accordance with Article 1 and 21 of the Memorandum of Understanding

Annex 1: Channels of communication in accordance with Article 1 and 21

<u>Agency task</u>	<u>Contact Agency</u>	<u>Contact Commission</u>
Central Coordination Point	Executive Director	Director in charge of the Agency in DG HOME Head of Unit in charge of the Agency in DG HOME
Cooperation, consultation and information	Chair of the Management Board Executive Director Deputy Executive Director	Director in charge of the Agency in DG HOME Head of Unit in charge of the Agency in DG HOME Director in charge of ECRIS-TCN in DG JUST
Work Programme	Head of Unit General Coordination	Head of Unit in charge of the Agency in DG HOME
Administration		
Recruitment and human resources	Head of Unit Human Resources	Head of Unit in charge of the Agency in DG HOME Head of Unit in charge of the Agency in DG HR

Information & Communication Policy	Head of Unit General Coordination	Head of Unit in charge of the Agency in DG HOME
Budget and Finance	Executive Director Head of Corporate Services Head of Unit Finance and Procurement	Director in charge of the Agency in DG HOME Head of Unit in charge of the Agency Budget in DG HOME Head of Unit in charge of the Agency in DG BUDG
Tasks related to the systems	Head of Operations Department	Head of Unit in charge of the Agency in DG HOME
Security/Safety	Security Officer of eu-LISA	Coordinator for relations with eu-LISA Head of Unit in charge of ECRIS-TCN in DG JUST
Business Continuity and Crisis Management	Executive Director Duty Officer of the Agency	Director in charge of the Agency in DG HOME Head of Unit in charge of the Agency in DG HOME Head of Unit in charge of ECRIS-TCN in DG

Communication Infrastructure	Head of Operations and Infrastructure Unit	Head of Unit in charge of the Agency (SIS, VIS, EES, ETIAS) in DG HOME Head of Unit in charge of EuroDomain in DG DIGIT Head of Unit in charge of Eurodac in DG HOME Head of Unit in charge of ECRIS-TCN in DG JUST
Relations with third parties	Head of Unit General Coordination	Head of Unit in charge of the Agency in DG HOME