



# Programming Document

**2018-2020**

Amendment 1

09.05.2018

## Section III: Annual Work Programme 2018

### Project A 3.4 – Handbook on European law relating to cybercrime and fundamental rights

PRIORITY 1

STATUS: new

TYPE: multiannual

START: 01/01/2018

#### DESCRIPTION and ADDED VALUE of the PROJECT

The widespread use of the internet has led to an exponential growth of increasingly sophisticated online threats. Nearly 90% of 28,000 Eurobarometer interviewees saw cybercrime as an important challenge to EU security.

The fight against cybercrime is one of the three pillars of the [European Agenda on Security](#) and developments in this area are regularly reported in monthly Commission communications. The EU has adopted relevant rules linked to this form of crime, such as the e Privacy Directive (2002/58/EC), the Directive on attacks against information systems (2013/40/EU), fraud and counterfeiting (2001/413/JHA), sexual abuse and sexual exploitation of children and child pornography (2011/92/EU), and on terrorism (2017/541/EU). In October 2017, the [European Parliament adopted a resolution in cybercrime, in which it requested the FRA “\(75\) to draw up a practical and detailed handbook providing guidelines regarding supervisory and scrutiny controls for Member States”](#). The European Commission has presented in April 2018 [a proposal for a regulation and a proposal for a directive](#) to improve cross-border access to electronic evidence. At Council of Europe (CoE) level, the [Budapest Convention on Cybercrime](#), ratified by 26 EU Member States, serves as the key international treaty in this area. Since its entry into force in 2004 the Cybercrime Convention Committee has provided extensive [guidance](#). By the end of 2019, a Protocol to the Budapest Convention should be open to signature. The Protocol will cover cross-border access to electronic evidence.

Technological advances, such as the use of encryption and Cloud services allow cybercriminals to hide unlawful content in remote server locations. This requires special investigative acts by authorities, which may also involve remote forensics and elaborated decryption techniques. These developments raise new challenges for protecting fundamental rights in particular when it comes to investigating cybercrime. The required investigation techniques affect various fundamental rights such as the rights to privacy and protection of personal data, freedom of expression, the right to a fair trial and the rights of the child.

Pending an official request from the European Parliament, the Agency proposes to begin initial work on a joint FRA/CoE Handbook that will cover European law relating to investigations on cybercrime, notably on electronic evidence. This Handbook would be the FRA answer to the European Parliament request. It will highlight the key fundamental rights challenges and provide possible promising practices to ensure fundamental rights compliance. Its preparation would follow the well-established [series of Handbooks](#) prepared by the FRA together with the Council of Europe and the European Court of Human Rights. The Handbook will provide easy-to-use guidance on cybercrime and electronic evidence. It will be based on other projects of the Agency in the area of privacy and data protection and access to justice (e.g. artificial intelligence, profiling). With this Handbook, FRA will increase its visibility in an area that will grow in importance in the coming years while enhancing synergies with the Council of Europe. Besides the project partners (Council of Europe/Cybercrime Division and the ECtHR), key stakeholders include: Member States; EU Institutions and Agencies, in particular Eurojust’s European Judicial Cybercrime Network, the Europol’s European Cybercrime Centre; the European Data Protection Authorities and the European Data Protection Board; civil society; and the private sector (Service Providers in particular).

#### PROJECT OBJECTIVES

- Contribute to raising awareness, assessing and highlighting possible solutions to current challenges faced by national authorities in complying with fundamental rights safeguards and EU data protection law in cybercrime and e-evidence investigations and cross-border cooperation.
- Provide accessible information that judges, prosecutors and law enforcement agents of EU Member States need to assess and check compliance with fundamental rights of special investigative techniques used in cybercrime and cross-border cooperation.
- Enhance cooperation with the Cybercrime Programme Office of the Council of Europe, the European Court of Human Rights, Eurojust’s European Judicial Cybercrime Network (EJNC), and Europol’s European Cybercrime Centre.

#### LINK TO FRA MULTI-ANNUAL STRATEGIC OBJECTIVES

- Identifying trends: collecting and analysing comparable data and evidence;
- Contributing to better law making and implementation: providing independent advice;
- Supporting rights-compliant policy responses: providing real-time assistance and expertise;
- Strengthening cooperation with national and local fundamental rights actors: working with communities of support; effectively promoting rights, values and freedoms.

#### PROJECT PLAN FOR 2018

ACTIVITIES	OUTPUTS
<ul style="list-style-type: none"> <li>• Desk research on EU-CoE legal framework</li> <li>• In-house legal mapping of national fundamental rights safeguards on cybercrime</li> <li>• Engage with relevant stakeholders</li> </ul>	<ul style="list-style-type: none"> <li>• Internal <i>research documents</i></li> <li>• <i>Mission reports</i></li> </ul>



## Project A 4.10 – Facilitation of the Subgroup on Equality Data

PRIORITY 1

STATUS: ongoing

TYPE: annual

START:  
01/01/2018

### DESCRIPTION and ADDED VALUE of the PROJECT

The High Level Group on Non-Discrimination, Equality and Diversity agreed to set up a Subgroup on Equality Data at its 6<sup>th</sup> meeting, held in Brussels on 23-24 October 2017. The European Commission invited FRA to facilitate the work of the subgroup, in line with the agency's mandate to develop methods and standards to improve the comparability, objectivity and reliability of data at European level. The Subgroup was established by the High Level Group on 28 February 2018, and had its first formal meeting on 26 and 27 April 2018. The Subgroup has been mandated to submit non-binding guidelines on improving the collection and use of equality data to be endorsed by the High Level Group.

The subgroup will follow a demand-driven approach, addressing the most pressing needs of Member States (including Norway) with regard to improving the collection and use of equality data. The activities and outputs of the Subgroup will build on previous work of the High Level Group, of FRA and of the European Commission in the area, particularly the series of studies on [equality data](#) presented by the European Commission in July 2017.

### PROJECT OBJECTIVES

- Foster expert discussions on how to improve equality data collection and their use.
- Identify gaps and shortcomings regarding equality data collection and regarding the use and dissemination of equality data and how to overcome these challenges.
- Develop non-binding guidelines on improving equality data collection to be endorsed by the High Level Group.

### LINK TO FRA MULTI-ANNUAL PRIORITIES

- Identifying trends: collecting and analysing comparable data and evidence.

### PROJECT PLAN FOR 2018

ACTIVITIES	OUTPUTS
<ul style="list-style-type: none"> <li>• Facilitate the work of the Subgroup on Equality Data, including its meetings.</li> <li>• Participate in meetings of the Subgroup and of the High Level Group on Non-Discrimination, Equality and Diversity.</li> <li>• Desk research.</li> <li>• Stakeholder cooperation.</li> </ul>	<ul style="list-style-type: none"> <li>• Non-binding guidelines on improving the collection and use of equality data to be endorsed by the High Level Group on Non-Discrimination, Equality and Diversity.</li> </ul>

### PROJECT RESOURCES FOR 2018

	HUMAN RESOURCES				BUDGET (EUR)			
	TA	CA	SNE	TOT	1ST PRIORITY	2ND PRIORITY	3RD PRIORITY	TOT 1ST PRIORITY
Research, stakeholder cooperation	0.1		0.3	0.4	-	-	5,000	-
Communication and awareness-raising		0.1		0.1			5,000	-
Total:	0.1	0.1	0.3	0.5	-	-	10,000	-

## Project A 9.17 – Programme level cooperation under the EEA and Norway Grants Financial Mechanism 2014-2021

PRIORITY 1

STATUS: ongoing

TYPE: multiannual

START: 01/01/2018

### DESCRIPTION and ADDED VALUE of the PROJECT

This project follows the exchange of letters on the implementation of the administrative cooperation arrangement between the Financial Mechanism Office (FMO) and the European Union Agency for Fundamental Rights (FRA), under the EEA and Norwegian Financial Mechanism 2014-2021, which was signed on 14 December 2017. Under the scope and objectives agreed in the exchange of letters implementing the cooperation arrangement, FRA shall act in the role of International Partner Organisation (IPO) in advising the national level Programme Operators of the programme “Roma inclusion and empowerment” in Greece, and in the programme “Human rights, Roma inclusion and domestic and gender-based violence” in the Czech Republic, and in a programme in a third beneficiary state of the Grants, which is still to be determined.

FRA will provide advice at an overall strategic level to the Programme Operators as well as to the FMO, in the preparation and implementation of the agreed programmes, through sharing its expertise and, inter alia, assist the Beneficiary State in applying European standards on fundamental rights. Programme development support as IPO will include technical assistance on, for example: the development of the programmes’ Concept Notes, participation in kick-off meetings, stakeholder consultations, programme agreement meetings; written input on the programme design, as well as advising on issues related to risk management and communication. FRA will also provide input to the draft Programme Agreement upon request of the FMO. In its role as IPO, FRA will also provide support during the programme implementation period, to ensure that the Programmes benefit from FRA good practices, recommendations and expertise related to policy analysis, peer support for national reform and policy dialogue. This will include participating in the Cooperation Committee of each Programme and providing input to the development of calls for projects, assess applications received under the calls for projects, take part in Selection Committee meetings and in the full selection process, as well as any other relevant activities at programme level. FRA may also contribute to the exchange of experience and capacity-building, communication plan of the programme, outreach seminars, providing advice to relevant entities, raise awareness and strengthen transparency of information about funding opportunities, project beneficiaries and achievements. FRA may also provide advice and strategic assessments to the FMO and the Donors on other areas, for example, through participating in expert meetings prior to the signature of an MoU between the Donors and a Beneficiary State, and to provide advice as to the feasibility and scope of a potential programme.

### PROJECT OBJECTIVES

- To provide technical assistance to the FMO, Donors of the EEA and Norway Grants, and national level Programme Operators on programme development and programme implementation in Programmes in three Beneficiary States
- To provide overall strategic advice to the FMO and Donors on the feasibility and scope of potential programmes
- Share promising practices and other findings resulting from FRA research to Programme Operators and the FMO on applying European standards on fundamental rights

### LINK TO FRA MULTI-ANNUAL PRIORITIES

- Supporting rights-compliant policy responses: providing a real-time assistance and expertise;
- Strengthening cooperation with national and local fundamental rights actors: working with communities of support;
- Effectively promoting rights, values and freedoms – raising systematically awareness of the need to respect, protect, promote and fulfil fundamental rights in the EU.

### PROJECT PLAN FOR 2018

ACTIVITIES	OUTPUTS
<ul style="list-style-type: none"> <li>• Programme development support in programmes of three Beneficiary States, through input to Concept Note development and participation in kick-off, stakeholder meetings and programme development meetings</li> <li>• Programme implementation support in programmes, through participation in Cooperation Committee, selection of projects, various meetings and other strategic cooperation</li> <li>• Provide strategic advice to both Programme Operators and inter alia to Member States in applying European standards on fundamental rights</li> </ul>	<ul style="list-style-type: none"> <li>• Technical assistance provided to three programmes in the Czech Republic, Greece and a third Beneficiary State of the EEA and Norway Grants</li> <li>• Strategic advice provided to the FMO and Donors through written inputs</li> <li>• Participation in a number of programme development and implementation meetings, including membership of Programme Cooperation Committees and Selection Committees</li> </ul>

### PROJECT RESOURCES FOR 2018

	HUMAN RESOURCES				BUDGET (EUR)			
	TA	CA	SNE	TOT	1ST PRIORITY	2ND PRIORITY	3RD PRIORITY	TOT 1ST PRIORITY
Research, stakeholder cooperation	0.2	0.8	-	1.0	321,429	-	-	321,429
Communication and awareness-raising	-	-	-	-	-	-	-	-
<b>Total:</b>	<b>0.2</b>	<b>0.8</b>	<b>-</b>	<b>1.0</b>	<b>321,429</b>	<b>-</b>	<b>-</b>	<b>321,429</b>

## Annex X: Procurement plan Year 2018 (financing decisions)

### Activity 3: Information society and, in particular, respect for private life and protection of personal data

#### A 3.4 Handbook on European law relating to cybercrime investigations

The overall budgetary allocation reserved for procurement contracts in 2018 amounts to EUR 0 (1<sup>st</sup> priority) and 10,000 (3<sup>rd</sup> priority)

Budget line: B03211 - Info soc. respect for priv life & prot. pers. data

Subject matter of the contracts envisaged: N/A

Type of contract: N/A

Type of procurement: N/A

Indicative number of contracts envisaged: N/A

Indicative timeframe for launching the procurement procedure: N/A

### ACTIVITY 4 - Equality and discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation, or on the grounds of nationality

#### A.4.10 Facilitation of the Subgroup on Equality Data

The overall budgetary allocation reserved for procurement contracts in 2018 amounts to EUR 0 (1<sup>st</sup> priority) and 10,000 (3<sup>rd</sup> priority)

Budget line: B03321 - Discrimination

Subject matter of the contracts envisaged: N/A

Type of contract: N/A

Type of procurement:

Indicative number of contracts envisaged: N/A

Indicative timeframe for launching the procurement procedure: N/A

### Activity 9: Cross-cutting projects or activities covering all MAF areas

#### A 9.14 Programme level cooperation under the EEA and Norway Grants Financial Mechanism 2014-2021

The overall budgetary allocation reserved for procurement contracts in 2018 amounts to EUR 321,429 (1<sup>st</sup> priority) and 0 (3<sup>rd</sup> priority)

Budget line: B04000 - Cooperation with Financial Mechanism Office

Subject matter of the contracts envisaged: technical assistance

Type of contract: specific contract based on an existing framework contract

Type of procurement: service

Indicative number of contracts envisaged: 1

Indicative timeframe for launching the procurement procedure: 3<sup>rd</sup> quarter of the year

## Annex IV: Human Resources - qualitative

### A. Recruitment policy

The Agency employs temporary agents 2(f) with the exception of the Director, who is a temporary agent 2(a), contract agents 3(a) and 3(b), and seconded national experts who are seconded to the Agency and remain in the employment of their seconding organisation. Detailed rules on the employment of temporary agents 2(f) are set out in the general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the Conditions of employment of other servants of the European Union (EB decision 2015/01 of 23 September 2015). Employment of contract agents is governed by MB decision 2008/04 of 4 June 2008. Employment of seconded national experts is governed by the rules on seconded national experts (MB decision 2017/01 of 11 April 2017) which are based on the Commission's ones adapted to the Agency's requirements.

The FRA in order to meet its objectives has identified the following generic job profiles:

- Advisers: undertake duties such as coordination, representation, analysis and advice, which represent a high added value for the Agency. They require special qualities of the person concerned and, in particular, special expert knowledge and special experience and the capacity to provide guidance of high added value. Typically these posts would be filled by Temporary Agents in the bracket AD13-AD14.
- Middle Managers: provide strategic and financial management and supervise the operational management within their respective fields covering different areas of FRA activities in respect of sound financial management. Typically these posts would be filled by Temporary Agents in the bracket AD9-AD12.
- Senior Officers/Programme Managers: are typically engaged in drafting reports, analysing and advising the hierarchy in specific areas such as research, planning, human resources, procurement and finance. Senior Officers may play a key role in general and budgetary processes and assist the hierarchy in ensuring business continuity. Programme Managers may manage a specific research project or represent FRA in external activities. Senior officers/programme managers may coordinate a team's work content under the authority of a Middle Manager. Typically these posts would be filled by Temporary Agents in the bracket AD8-AD10.
- Officers/Programme Managers: play a key role in general processes, draft reports, implement policies, coordinate specific areas of work or a team's work content or, represent FRA in external activities. Typically these posts would be filled by Temporary Agents in the bracket AD5-AD7, Contract Agents FGIV and Seconded National Experts. Temporary agents at grades AD 5 and Contract Agents at function group IV under direct supervision will contribute to the completion of the above-mentioned tasks and may play a supporting and active role in the development of overall tasks and work.
- Senior Assistants/Officers: provide support in the drafting of documents and assistance in the implementation of policies and procedures in areas such as administration, procurement, finance, human resources, research, communication, following advice from the hierarchy. Typically these posts would be filled by Temporary Agents in the bracket AST10-AST11.
- Assistants/Support Officers: play a supporting role in areas such as administration, procurement, finance, human resources, research and communication, under the supervision of a Senior Assistant and/or a higher level function. Typically these posts would be filled by Temporary Agents in the bracket AST1-AST9 and with Contract Agents Function Group II and III.
- Secretaries/Clerks: provide secretarial and/or clerical support in operational and administrative areas. Typically these posts would be filled by Temporary Agents in the bracket AST/SC1 – AST/SC6

and with Contract Agents Function Group I and II.

In addition to the abovementioned generic profiles, the agency in order to increase its efficiency and effectiveness in 2012 adopted a decision (Decision HRP/030/2012) on the assignment of Heads of Sectors. Their role is to co-ordinate and supervise specific activities undertaken by staff in the sector they are responsible for.

In terms of type of contract and recruitment grade for the different type of functions presented above, FRA has identified all temporary agent posts, with the exception of the Director, as posts of long-term duration.

#### **a. Temporary agents on long term employment**

Temporary agents, 2(f), are used for most roles, both managerial and operational, in the Agency, except of the role of Director and those roles that are filled by contract agents. The criteria of the agency in the identification of the posts as being of a long-term duration are the following:

- for posts covering tasks of a permanent nature as resulting from the mandate and Work Programme of the agency; and
- to safeguard continuous expertise in the specific areas of human rights

Long-term temporary agents will be recruited at the levels indicated below in order to permit a long term career development:

- AST/SC1 to AST/SC2 for the secretaries and clerks function group (AST/SC)<sup>1</sup>
- AST 1 to AST 4 for the assistants function group (AST)
- AD 5 to AD 8 for the administrators function group (AD).

The determining factor in deciding on the appropriate entry point is the level of experience that the candidate needs in order to assume the responsibilities of the role. For instance, in the area of research, Research Managers recruited at AD 7 are candidates with a significant level of experience and expertise and are expected to assume a project managerial role immediately. Research Officers, on the other hand, who are recruited at AD 5, will generally be less experienced and are assigned to carry out work of a more technical/scientific nature initially, for example conducting research rather than managing it. In this role, the Research Officer develops the skills of a Research Manager over time and by the time of promotion to AD 7 in due course will be expected to assume all aspects of the role of Research Manager.

Long-term temporary agents will also be recruited at the level of AD 9 to AD11 and in exceptional cases at grade AD 12 for middle management, and grades AD 13 and AD 14 for advisers positions. In all cases and before publishing any post, the agency will carefully evaluate all options in order not to recruit at excessive level. Recruitment of middle managers at grades AD9-AD11, and in exceptional cases at grade AD12 shall remain within the limits of 20% of recruitments per year over a rolling period of five years for long term employment within the agency.

Temporary agent posts are filled through the following processes:

- internal selection
- inter-agency mobility
- open selection

Internal selection procedure notices are advertised within the Agency, outlining the job description

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<sup>1</sup> *The Agency will consider requesting such posts progressively in the future (i.e. with departures, retirements, new recruitments)*



and the candidate requirements. If there are not sufficient qualified candidates through the internal selection process, the process moves to the inter-institutional and open stages of the selection procedure. The inter-agency procedure, which may run in parallel with the open selection, is advertised in the institutions and Agencies. Candidates are required to submit their applications through the Agency's online recruitment system.

The open selection procedure is advertised through a short notice in the Official Journal, C series, and on the EPSO website. The full detailed vacancy notice is published on FRA's website and intranet, which also contains the application form. Candidates are required to apply through the online recruitment system. Normally, there is a four-week deadline for submission of applications.

Long-term temporary agents are offered a contract of an indefinite period. The agency requires technically qualified staff with specialist knowledge and experience for most of its activities, especially in the areas of specific competence linked to its regulation and strategy. This is, however, also valid for staff working in administration, finance, human resources, accounting, procurement and information communication technology since, in many cases, there is an extremely limited number of members of staff to cover each specific activity. In many cases it is of utmost importance to have staff with broad knowledge and expertise in the respective fields of work. In the past the agency faced difficulties in recruiting staff. However since the implementation of this measure as well as other social benefits, both the quantity and quality of candidates has been increased considerably.

#### **Temporary agents on short/medium term employment**

The post of the Director is of a fixed period of five years and could be extended once for a period of three years (ref. Article 15 (3) of the Regulation establishing the agency No 168/2007 of 15 February 2007) and hence is considered short term.

##### **b. Contract agents on long term employment**

Contract agents are engaged by the Agency mainly to carry out support roles and for assistance with operational activities. Roles for which contract agents have been engaged as officers or assistants in the areas of HR, project management, organisation of events, contract and finance, data protection and Internal Control, facilities and operations. In deciding on the posts to be filled by contract agents on long term employment, the Agency takes into consideration if there are posts available in the adopted establishment plan and whether there are needs to be fulfilled based on the Agency's working priorities, as well as new tasks requested by key stakeholders.

The criteria used to identify contract agents for long term employment are the following:

- Reinforcement of capacities in specific areas of expertise where there is a need of additional resources.
- Reinforcement of existing capacities in support functions as necessary.

Contract agents are initially offered a contract of two years renewable for another limited period up to five years. A second renewal is for an indefinite contract provided the first two contracts covered a total period of five years without interruption. This is stipulated in the Implementing Rules for the engagement and use of contracts Agents that the agency has adopted by its Management Board (Management Board Decision 2008/4). Renewals of contract will depend on the future business needs for the function occupied, performance and budgetary availability.

Some contract agents may be offered contracts of shorter duration, depending, for example, on the envisaged duration of the project in the case of core activities, the estimated time for which an additional resource is required, or the time that it will take to fill a temporary agent vacancy.

The selection procedures for the recruitment of Contract Agents follow the Management Board Decision 2008/4. In addition, the agency signed in 2010 a Service Level Agreement with the

European Personnel Selection Office by which it may use the database of successful candidates to fulfil vacant contract agent positions.

#### **- Contract agents on short/medium term employment**

The criteria used to identify contract agents for short term employment are the following:

- to work with specific, time limited projects, and
- to cover needs such as staff going on maternity and parental leave and staff on long sick leave.

In deciding on the posts to be filled by contract agents on short/medium term of employment, the following factors are considered:

- there is a short- or medium-term project where the appointment of a permanent resource is not justified
- there are staff members in long absence due to extended illness, maternity leave, unpaid leave, etc., and
- a post is being created on a pilot basis and a contract agent is employed until the success of the new post can be assessed.

There are two options available when recruiting contract agents on short, medium or long term employment. The first is to source candidates from the EPSO CAST database. The CAST has not proved to be effective, and it is now rarely used by FRA. The second option of recruiting through a selection procedure organised by the Agency is invariably the more effective solution.

They are offered an initial fixed-term contract whose duration is based on the duration of the tasks to be performed. The contract may be renewed for a second fixed-term should the duration of the specific project be extended (up to a maximum of six years). All renewals of contract will depend on the business needs for the function occupied and available budgetary provisions

#### **c. Seconded national experts**

Seconded National Experts are staff employed by a national, regional or local public administration or an IGO, who are seconded to FRA so that it can use their expertise in a particular field. They are selected according to an open procedure published on the FRA's website. Before their secondment the number of SNE is authorised by the Agency and they are included in the draft estimate of the financial year concerned.

The initial period of secondment, which is specified in the exchange of letters between the Agency and the seconding organisation, may not be less than six months and more than two years. It may be renewed, however, the total secondment will not exceed four years.

An SNE may be seconded to FRA for another time provided that a period of at least six years elapsed between the end of the previous secondment and the start of the new. In cases where the initial period lasted for less than four years, the second secondment can take place before the six years elapse. However, in such cases, the total period of the two secondments cannot exceed the four-year period.

#### **d. External service providers**

External service providers are contracted via procurement procedures. Usually this is done through an open tendering procedure. The types of services typically include ICT helpdesk, other ICT assistance, security and cleaning services, and medical doctor services, some of which are on a part-time basis.