



Management Board

The Hague, 7 August 2020

EDOC #1115142v6

DECISION OF THE MANAGEMENT BOARD OF EUROPOL defining the Europol posts that can be filled only by staff engaged from the competent authorities of the Member States ("restricted posts")

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 establishing Europol¹ (hereafter "Europol Regulation"), and in particular Article 53(2) thereof,

Having regard to the Staff Regulations of Officials of the European Union (hereafter "Staff Regulations") and the Conditions of Employment of Other Servants of the European Union (hereafter "Conditions of Employment"), as laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68, and last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and the Council of 22 October 2013²,

Having regard, more in particular, to Article 12(1) of the Conditions of Employment relating to the conditions of engagement of temporary staff,

Having regard to the Management Board Decision laying down 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 of 28 February 2019,

Having regard to the Management Board Decision on the rules for the selection, extension of the term of office and removal from office of the Executive Director and Deputy Executive Directors of 1 May 2017.

Having regard to the Rules of Procedure of the Management Board of 13 December 2016,

Whereas:

- (1) According to Article 53(1) of the Europol Regulation, the Staff Regulations and the Conditions of Employment shall apply to Europol staff, as defined in the said Article.

¹ OJ L 135, 24.5.2016, p. 53.

² OJ L 287, 29.10.2013, p. 15.

Europol Unclassified - Basic Protection Level

- (2) Article 53(2) of the Europol Regulation provides that Europol staff shall consist of temporary staff and/or contract staff engaged in accordance with the Conditions of Employment.
- (3) According to Article 53(2), the Management Board shall decide which temporary staff posts provided for in the establishment plan can be filled only by staff engaged from the competent authorities of the Member States (hereafter referred to as "restricted posts"). It is furthermore provided therein that temporary staff recruited to occupy restricted posts shall be temporary agents who may be awarded only fixed-term contracts, renewable once for a fixed period.
- (4) Article 53(2) of the Europol Regulation aims at ensuring that Europol is appropriately staffed and can benefit from the expertise available within the competent authorities of the Member States. It further enables Europol to fulfil its tasks to the best of its abilities, in close cooperation with the competent authorities of the Member States.
- (5) The reason for limiting the period of service of temporary staff occupying restricted posts to the duration of two successive fixed-term contracts is laid down in Recital 59 of the Europol Regulation and is to maintain the principle of rotation as the subsequent reintegration of such staff members into the service of their competent authority, facilitates close cooperation between Europol and the competent authorities of the Member States.
- (6) In line with the approach previously endorsed by the Management Board, a limited number of restricted posts which may be occupied by temporary staff recruited from the competent authorities of the Member States are established outside the Operations Directorate.
- (7) For the purposes of determining the posts for which staff can only be recruited from the competent authorities of the Member States within the Operations Directorate, a two-step approach is considered necessary. As a first step, all functions/posts in the Operations Directorate which are occupied by temporary staff of the function group of administrators (AD), were made, per definition, restricted. In a second step, the Management Board indicated those functions (job profiles) in the Operations Directorate, but not only, that shall be filled without limitation to candidates coming from a competent authority, that is, these functions may be filled by recruiting individuals who do not come from the competent authorities. These job profiles include the posts previously mentioned in the Annex to this Decision relating to mainly the posts within "EC3 Strategy and Development" and formerly defined as non-restricted.
- (8) With the aim of selecting the most suitable candidates and ensuring Europol's ability to provide the Member States with the necessary expertise in technical areas, such as cybercrime, financial intelligence and forensics, where strong candidates are to be found also in the private sector, the possibility that some functions are performed by temporary staff selected without limitation to candidates having a law enforcement background should be available. Due to the law enforcement affinity of all these functions, it is however advisable to maintain the rotation principle for all those posts as far as possible, i.e. by ensuring that all AD post holders, primarily in the Operations Directorate, but not only, irrespective of whether the person came from a competent authority or not, would have a contract of limited duration. The recruitment procedure for restricted posts should apply for all candidates, including the usual representation of Member States in the selection committees.

Europol Unclassified - Basic Protection Level

- (9) It is therefore necessary to establish a list of job profiles in Annex II to this Decision, which allows the Management Board to decide on the matter in advance – and not only “*ad hoc*” upon request of the Executive Director in exceptional cases – and promotes legal certainty and transparency.
- (10) In view of the nature of two specific job profiles, it is appropriate to provide a separate category (Annex III) in addition to the restricted posts which shall be filled without limitation to candidates coming from a competent authority. The restricted posts in Annex III should be filled preferably by staff engaged from the competent authorities of the Member States; however, in case the regular procedure for filling such posts in accordance with Article 2 should prove unsuccessful, a recruitment procedure open to candidates employed by a public sector authority or body would be carried out.
- (11) Should the Executive Director amend the tasks and responsibilities contained in certain job descriptions as referenced in the Annexes, any amendment affecting the nature of the post remains the prerogative of the Management Board.
- (12) It is appropriate that the Management Board evaluate the lists set out in the Annexes of the decision regularly and that it receive frequent updates on the amount of restricted posts filled without limitation to candidates coming from a competent authority of the Member States.
- (13) For the sake of the duty of care and the principles of good administration and legal certainty, transitional provisions are necessary for staff members who were recruited to occupy a non-restricted post in the Operations Directorate, under the decision of the Management Board hereby repealed or its previous versions, and whose post would now otherwise be affected by this Decision.

HAS ADOPTED THE FOLLOWING DECISION:

Article 1

Temporary staff posts referred to in Annexes I, II and III shall be regarded as restricted posts.

Article 2

1. In accordance with Article 53(2) of the Europol Regulation, restricted posts may only be filled by staff engaged from the competent authorities of the Member States.
2. “Competent authority” (or “Competent authorities”) shall mean (all) the police authorities and other law enforcement services existing in the Member State(s) which are responsible under national law for preventing and combating criminal offences. The competent authority (-ies) shall also comprise other public authorities existing in the Member State(s) which are responsible under national law for preventing and combating criminal offences in respect of which Europol is competent.
3. The Member State concerned shall inform Europol as to whether it considers a candidate for a restricted post as being employed by one of its competent national authorities or not.

Europol Unclassified - Basic Protection Level

During their posting at Europol, temporary staff engaged to occupy a restricted post in accordance with paragraphs 1 and 2 shall, for the purpose of applying Article 53(2) of the Europol Regulation, continue to be regarded as being engaged from the competent authorities of the Member States. They shall thus be eligible to apply for another restricted post while in service at Europol.

Article 3

1. The Management Board may, upon reasoned request of the Executive Director, decide on a case-by-case basis that a particular restricted post should be exceptionally filled without restriction as to whether the candidate is engaged from a competent authority or not.
2. Without a decision of the Management Board pursuant to paragraph 1 being required, it is decided that:
 - the restricted posts indicated in Annex II are to be filled without limitation to candidates engaged from a competent authority;
 - the restricted posts indicated in Annex III are to be filled with limitation to staff engaged from a competent authority. Should Europol not be able to fill such a post with a candidate engaged from a competent authority, the post shall subsequently be filled by candidates who are employed, at the closing date of the vacancy notice, by a public sector authority or body of a Member State.

The number of such restricted posts ultimately filled by staff not engaged from the competent authorities of the Member States shall not exceed 15% of all temporary agent AD posts allocated to the Operations Directorate in the most recent Staff Establishment Plan concerning a given budgetary year.

3. In cases described in paragraphs 1 and 2 leading to a recruitment procedure, the selection procedure for restricted posts, as defined in the Decision of the Europol Management Board laying down general implementing provisions on the procedure governing the engagement and the use of temporary agents under Article 2(f) of the Conditions of Employment of Other Servants of the European Union of 28 February 2019 or, where applicable, the rules for the selection, extension of the term of office and removal from office of the Executive Director and Deputy Executive Directors of 1 May 2017, shall apply. The successful candidate may only be awarded a fixed-term contract renewable once for a fixed period in accordance with Article 53(2) of the Europol Regulation.

Article 4

1. The provisions of this Decision do not affect the contract of employment of staff members originally recruited on non-restricted posts who are currently occupying the said posts in the Operations Directorate and whose posts would now otherwise be affected by this Decision. This includes the eligibility for a contract of indefinite duration on the occasion of a possible second renewal of the said contract.

Europol Unclassified - Basic Protection Level

2. The posts remain non-restricted for as long as the staff members referred to in the first paragraph occupy them. If any of these posts become vacant in the future, they may only be filled in line with the provisions of this Decision and other applicable rules. In deviation from the foregoing, the post of Head of Unit Strategy EC3 can be filled only by staff engaged from the competent authorities of the Member States once the post becomes vacant again.

Article 5

1. The Management Board Decision defining the Europol posts that can be filled only by staff engaged from the competent authorities of the Member States ("restricted posts") of 6 September 2019 (EDOC #1047708v7) is hereby repealed. The present decision shall enter into force on the day following that of its adoption and shall be published in the Europol Vademecum.
2. The functions and posts set out in Annexes I, II and III shall be evaluated by the Management Board on a yearly basis³. The Management Board shall receive a yearly update on the number of restricted posts filled in accordance with Article 3(2) and (3).

Done at The Hague, on 7 August 2020

For the Management Board



Oliver Rüb

Chairperson

³ The yearly 2020 evaluation was performed by the Management Board at the time of the adoption of this amended version of the Decision (EDOC#1115142v5).

ANNEX I

The following functions are to be performed by temporary staff recruited to occupy a restricted post⁴:

- All functions in the Operations Directorate performed by temporary staff recruited to occupy posts in the administrators' function group (AD).

In addition:

- Deputy Executive Director of the Governance Directorate⁵ (EDOC #899510);
- Head of Department Corporate Affairs Bureau (EDOC #897915);
- Head of Unit Security (EDOC #901629);
- Head of Unit Strategy and External Relations (EDOC #1058424);
- Specialist(s)/Senior Specialist(s) in the Secretariat of the Heads of the Europol National Units (EDOC #1058447).

⁴ Without prejudice to staff members referred to in Article 4 of the Decision.

⁵ The Management Board decided to add this post under Annex I at its 13-14 December 2018 meeting.

ANNEX II

The following restricted posts for temporary AD staff primarily in the Operations Directorate, but not only, are filled without limitation to candidates coming from a competent authority in the sense of Article 3(2), first indent, of the present Decision:¹

Posts providing strategic or technical support, not requiring access to operational data

a) (Senior) Specialist - Coordinator within Operations Directorate Management Office

The job profile of the Operations Directorate Management Office coordinator does not require a law enforcement background, therefore should be a profile filled without restrictions as to the candidates, with no need to access personal operational data. The Operations Directorate Management Office coordinator will mainly focus on administrative planning, monitoring and coordination and will assist the Deputy Executive Director with the delivery of administrative and strategic support and coordination.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

Posts providing specific and highly specialised expertise and support to operational cases

b) Research Analyst

Research and development is essential to drive an organisation forward. In many national LE authorities, the research analyst does not have a law enforcement background and cannot apply for a position at Europol. Limiting a research officer position to LE only has a direct impact on the quantity and quality of candidates for these positions. The research analyst will be working in the strategic analysis team under the supervision of a strategic analyst and will be responsible for the research functions in the team, focusing mainly on developing and implementing early warnings and intelligence notifications, overseeing and steering the design, development and management of new indicators as well as providing OSINT scanning to support the strategic analysts and environmental scanning.

c) (Senior) Specialist - Financial Intelligence

As non-cash payment methods such as cryptocurrencies are increasingly being adopted by criminals, it is essential for law enforcement to have access to the necessary expertise, skills and tools to investigate them and to stay abreast of any relevant developments in this field. The required knowledge and experience is often found in experts who do not have law enforcement background but can offer specific and relevant support in terms of tracing criminal financial transactions for instance in Bitcoin, which are linked to cyber criminality as well as traditional forms of crime. This requires effective and efficient public-private-partnerships with industry, the financial sector and academia. Given the complexity of the topic, a financial analyst with access to operational data such as the address of a Bitcoin wallet can help provide additional investigate leads and explanations to investigators. Moreover, a financial analyst can analyse operational data to look for specific

¹ Without prejudice to staff members referred to in Article 4 of the Decision.

Europol Unclassified - Basic Protection Level

trends and patterns in the abuse of non-cash payment methods that can be turned into strategic or tactical advice for investigators (e.g. what types of files to look for on a suspect's device during investigations, new forms of money laundering using cryptocurrencies). Equally, they can keep investigators informed about relevant developments and also help in developing specific solutions to certain types of criminal abuse of alternative payment methods, including input for policy recommendations and the development of best practices.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

d) (Senior) Specialist - Forensic Examiner

This post already exists as a non-restricted post within EC3 Strategy; due to the reorganisation of the Operations Directorate, these posts moved away from EC3 Strategy and are a separate team now.

With an increasingly digitised society the criminal use of technology is advancing at a significant pace challenging the member states capacity to deal with the most complex investigations. The complexity of supporting the highest level cyber and cyber enabled investigations across the member states requires Europol to be able to supply support and guidance at the highest level. The very specific technical skills set required to provide high level digital forensic support is frequently at a level beyond that available in law enforcement. Of particular significance will be posts relating to decryption, live forensics and network forensics. In order to be able to supply such services the profile of this Directorate requires the flexibility to appoint profiles filled without restrictions as to the candidates having access to operational data where the appropriate skill set cannot be sourced from within law enforcement.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

e) (Senior) Specialist - Technical Support

The very specific skill set required is at a level beyond that available in the law enforcement. Therefore this profile requires a selection without restriction as to the candidates, having access to operational data. The (Senior) Specialist Technical Support will a.o. scan the environment for new technology; identify abuse of technology by criminal and terrorist group; develop scripts and ad-hoc toolsets for the purpose of investigations; develop/implement solutions to support internet investigation and analysis of electronic evidence (mainstream platforms and deepweb/darknet) ; apply forensic methodologies a.o. to the monitoring and analysis of internet based communication; develop Standard Operating Procedures (SOPs)/ Work Instructions (WIs) to document all processes and procedures.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

f) (Senior) Specialist with advanced language and translation skills

The very specific skill set required is at a level beyond that available in the law enforcement. Therefore this profile requires a selection without restriction as to the candidates, having access to operational data. The Specialist will go through communication data and media in e.g. the Arabic, Turkish or Russian language to detect relevant information for the production of strategic and operational analytical reports usable in court, where operational and strategic data are mixed to give an expert view on specific phenomena. He/she will also deliver on the spot deployment support to Member States on a live case.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

Middle Management Function within ICT and information management domain

g) Head of Department ICT

The Head of Department ICT delivers Europol's portfolio in a complex stakeholder environment, as Europol's ICT change programmes affect and thus need to be synchronised with the portfolio of (external and internal) law enforcement and other stakeholders in Member States and at EU level and in a concurrent manner, in particular for the implementation of the EU Interoperability Agenda.

The post holder must therefore have the ability to drive change by effectively identifying, managing and translating the needs of its stakeholders. While similar previous experience in a law enforcement body may thus draw optimal candidates with experience in managing law enforcement data, as well as ICT projects and programmes that implement change at the federal and regional/local level, it should be a profile filled without restrictions as to the candidates, since the ICT skill set required may also be found beyond that available in law enforcement competent authority.

ANNEX III

The following restricted posts for temporary AD staff in the Operations Directorate are filled with limitation to candidates coming from a competent authority or, should such procedure prove unsuccessful, with limitation to candidates who are employed by a public sector authority or body in the sense of Article 3(2), second indent, of the present decision:²

a) (Senior) Specialist - Policy advisor for the Operations Directorate

In many national LE authorities, the policy advisor does not necessarily need to have a law enforcement background. Therefore it is argued for the policy advisor to be a profile filled without restrictions as to the candidates. The policy advisor will mainly support and provide advice to the Operations Directorate on policies and strategic matters.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

b) (Senior) Specialist – Operations Directorate Strategy and Stakeholder Manager

This post already exists as a non-restricted post but within EC3 only; the position needs to be extended throughout the whole Operations Directorate, supporting all the Centres and HOS.

The Operations Directorate Strategy and Stakeholder manager will enhance the strategic and policy-related activities in the respective crime area, with particular attention to the operational strategic relations with partners and third countries, including the MENA region. He/she will perform Operational Directorate-related strategic planning, monitor the implementation of the relevant work programmes, both internally with regard to the Directorate and the Management Board. He/she will translate operational needs and challenges into policy proposals and leverage operational results by means of internal and external presentations in support of management level. In many national LE authorities, the Strategy and Stakeholder manager does not necessarily need to have a law enforcement background. Therefore it is argued for the post to be a profile filled without restrictions as to the candidates.

The Senior Specialist profile will be linked to managerial responsibilities or the uniqueness of a profile not available at junior level.

² Without prejudice to staff members referred to in Article 4 of the Decision.