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Management Board

DECISION OF THE EUROPOL MANAGEMENT BOARD

Laying down general implementing provisions on the procedures governing the engagement and the use of temporary agents at Europol

THE MANAGEMENT BOARD of EUROPOL,

Having regard to the Council Decision establishing the European Police Office (hereinafter "Europol") of 06 April 2009 based on Article 30(1)(b), Article 30(2) and Article 34(2)(c) of the Treaty on European Union, (hereinafter the "Europol Decision")⁽¹⁾, and in particular Article 37(9)(d), Article 37(9)(f), Article 37(9)(i), Article 38(4)(c), Article 39 and Articles 59(1)(d) and 59(2) thereof,

Having regard to the Staff Regulations of Officials of the European Communities (hereinafter the "Staff Regulations") and the Conditions of Employment of Other Servants of the European Communities (hereinafter the "Conditions of employment"), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 and the amendments thereto,

Having regard, more in particular, to Articles 2(a), 8, 10 and 12 of the Conditions of employment relating to temporary staff,

Having regard to the Commission Decision C(2005)5304 of 16 December 2005 concerning the guidelines on staff policy in the European Regulatory Agencies,

Having regard to the Management Board rules of procedure, in particular Article 3 thereof,

After consultation of the Europol Staff Committee and in agreement with the European Commission pursuant to Article 110 of the Staff Regulations,

Whereas:

- (1) According to Article 39(1) of the Europol Decision, the Staff Regulations and Conditions of employment shall apply to the Director, the Deputy Directors and the Europol staff engaged after its date of application, i.e.: after 01 January 2010.

¹ OJ L 121, 15.05.2009, p. 37.

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- (2) Europol staff shall consist of temporary staff and/or contract staff engaged in accordance with the Conditions of employment.
- (3) The powers conferred on the appointing authority by the Staff Regulations and on the authority authorised to conclude contracts (hereinafter “Contracting Authority”) by the Conditions of employment shall be exercised by Europol in respect of its staff in accordance with the provisions of Article 39(3) of the Europol Decision.
- (4) According to Articles 38(4)(b) and 38(5) of the Europol Decision, the Director is respectively responsible for day-to-day administration of Europol and accountable to the Management Board in respect of the performance of his duties.
- (5) Europol may only recruit temporary staff under Article 2(a) of the Conditions of employment.
- (6) It is for the Management Board to determine 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 (hereinafter “restricted posts”) in accordance with Article 39(4) of the Europol Decision.
- (7) According to Article 39(4) of the Europol Decision, temporary agents recruited under Article 2(a) of the Conditions of employment to occupy restricted posts may be awarded only fixed-term contracts renewable once for a fixed period.
- (8) The reason for limiting the period of service of temporary agents on restricted posts to the duration of two successive fixed-term contracts stems from the Council's decision to maintain the principle of rotation; on that basis, staff members would subsequently be reintegrated into the service of their competent authority in order, notably, to enhance cooperation between Europol and the competent authorities of the Member States.
- (9) Conversely, Article 39(4) of the Europol Decision offers the possibility of engaging temporary agents employed on non-restricted posts for an indefinite period, which is subject, however, to having obtained Management Board prior consent on a yearly basis insofar as the Director intends to grant such contracts.
- (10) A temporary staff member who, after having served two successive fixed-term contracts, is not offered a contract of indefinite duration in accordance with Article 39 of the Europol Decision and the Staff Regulations cannot be considered for a third fixed-term contract, regardless of whether that third fixed-term contract pertains to the post previously held or if it is the consequence of succeeding in a new selection procedure.
- (11) Based on a reasonable interpretation of the principle of rotation and of the provisions of Article 8, first subparagraph, of the Conditions of employment, however, Europol is not prevented from considering a former temporary staff member as eligible to apply for a new temporary agent 2(a) post following a period of absence from Europol which ensures compliance with the above mentioned principles.
- (12) The engagement of temporary agents by Europol is further governed by the Conditions of employment, in particular by Articles 8 and 12 thereof.
- (13) According to Article 12(5) of the Conditions of employment it is for each institution to adopt, as necessary, general provisions on the procedures for recruitment of temporary staff in accordance with Article 110 of the Staff Regulations.
- (14) It is desirable to adopt detailed rules on the employment of temporary agents. These rules should be based on the types and the duration of tasks to be filled with temporary staff.

- (15) Temporary agents should be selected through a transparent and objective procedure.
- (16) The grading of temporary staff should correspond to the functions to be exercised.
- (17) The rules contained in these implementing provisions, and in particular those on selection procedures, probationary period, duration of contracts and grading, are without prejudice to the General Implementing Provisions of 17/11/2009 on the procedure governing the Internal Selection Process to be carried out under Article 57 of the Europol Decision.

HAS ADOPTED THE FOLLOWING PROVISIONS:

SECTION 1
General provisions

Article 1
Scope

These rules shall apply to temporary staff referred to in Article 2(a) of the Conditions of employment (hereinafter "TA2a") engaged by Europol, except:

- the posts corresponding to the functions stated in the Europol Decision: Director and Deputy Directors.
- Assistant Directors and heads of unit, including the Secretary of the Management Board and the head of the Internal Audit Function, whose conditions of engagement and employment shall be carried out in line with the specific decision concerning middle management.

Any reference in these rules to a person of the male sex shall be deemed also to constitute a reference to the female sex, and vice-versa, unless the context clearly indicates otherwise.

Article 2
Type of posts and filling of posts

TA2a shall be engaged on temporary posts on long-term or short-term employment depending on the type and the duration of tasks:

- TA2a on short-term employment shall be engaged for:
 - a) Restricted posts provided for in the establishment plan which can be filled only by staff engaged from the competent authorities of the Member States in accordance with the decision adopted by the Management Board pursuant to Article 39(4) of the Europol Decision;
 - b) Non-restricted posts involving tasks of a limited duration: staff employed on operational, administrative or technical tasks of a defined duration or staff to cover peaks in workload on a limited period.

- TA2a on long-term employment shall be engaged for non-restricted posts involving permanent tasks: staff hired on long-term operational, administrative or technical tasks other than those pertaining to restricted posts.

The Contracting Authority may decide to fill long-term employment posts either through an internal engagement procedure, or via the Interagency Job Market², or through an external engagement procedure. Short-term employment posts shall only be filled through an external engagement procedure.

The advertisement of a long-term employment post may be done simultaneously internally in Europol and in the Interagency Job Market, before advertising the vacant post externally. However, in the case of simultaneous advertisement, internally and in the Interagency Job Market, the applications of the internal candidates shall be considered first.

The vacancy notice for a TA2a post shall provide information on the security screening to be applied to the successful candidate in compliance with the rules adopted pursuant to Article 40 of the Europol Decision.

SECTION 2 **Selection Procedures**

Article 3 *Selection procedure for long-term employment*

Europol may select TA2a for long-term employment using one of the following selection procedures:

1. Selection procedure by the European Communities Personnel Selection Office (EPSO):

- (a) Where, pursuant to Articles 12(3) and 12(4) of the Conditions of employment, EPSO organises on request of Europol a selection procedure, it shall follow the same standards as for general officials' competitions.³

EPSO shall provide Europol with a list of successfully tested candidates.

In the case of general selection procedures performed for different institutions, EPSO shall, on request of Europol, take account of the needs of Europol by reserving a quota of successful candidates and indicating, where appropriate, which of them were successfully tested in Europol's field of work.

- (b) The Contracting Authority shall set up a Selection Committee, which shall consist of at least three members.

Where the Selection Committee consists of three members, there should be one member from the human resources unit of Europol, one member from the relevant unit/service and one person designated by the Staff Committee. The member of the human resources unit or the member from the relevant unit/service shall act as chairman.

² Recourse to the Interagency Job Market is subject to the prior accession of Europol to the agreement on the creation and implementation of an Inter-Agency Job Market.

³ The involvement of EPSO in the selection procedures shall be defined in a Service Level Agreement between EPSO and Europol.

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In specific cases, in particular for selection procedures of experts, two additional members may be designated by the Contracting Authority on a proposal from the Chairperson of the Management Board. The additional members shall be designated from another service of Europol, from outside Europol or from outside the Community institutions including from Member States.

The members of the Selection Committee who are officials or temporary agents shall be chosen from officials/temporary agents whose function group and grade is at least equal to that of the post to be filled.

- (c) The Selection Committee shall invite for interview the candidates from EPSO's list who are considered to be the most suitable. Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.
- (d) The Selection Committee shall propose a shortlist of successful candidates to the Contracting Authority, which may draw up a reserve list of successful candidates. This list will be valid up to 12 months from the date of its establishment and its validity may be extended once by decision of the Contracting Authority for a up to 12 months.
- (e) Candidates shall be informed of the outcome of the interview and of whether they have been placed on the reserve list.

2. Selection procedure carried out by Europol:

- (a) Europol may organise a selection procedure, in which it must apply similar standards to those applied in competitions for officials.
- (b) Europol shall launch the recruitment procedure by advertising vacancy notices specifying the criteria concerning general and specific competencies and key qualifications required and the possible duration of employment, the function group and grade, and the main steps of the selection procedure. Vacancy notices shall be published not less than four weeks prior to the closing date for submitting applications and, where applicable, not less than eight weeks prior to the date of the tests.

The vacancy notice shall be advertised at least in English on Europol's Internet site, EPSO website, as well as if necessary in appropriate external media. Europol shall inform the Europol national units, through their respective liaison bureaux, of all vacancies advertised in accordance with this Article.

- (c) A Selection Committee as referred to in Article 3(1)(b) shall evaluate applications and select those candidates meeting the eligibility criteria and matching best the selection criteria required as per vacancy notice.
- (d) The Selection Committee shall invite the selected applicants to undergo any tests relevant to the post to be filled. These tests shall at least include written tests, the content of which shall be defined in accordance with the level and profile of the position advertised.

The written tests shall consist of the following components:

- general aptitudes and language abilities to the extent necessary for the performance of their duties;
- knowledge on European integration, Europol and EU institutions related to Europol's mission;

- specific competencies with reference to the profile of the position, assessing the quality of writing style and presentation.

The above-mentioned components of these tests can be combined and tailored according to the profile of the post.

Derogation from the requirement for written tests can be granted for a selection procedure by decision of the Contracting Authority in exceptional circumstances which need to be duly justified and documented.

In accordance with Article 12(3) and (4) of the Conditions of employment, EPSO shall, at the request of Europol, provide assistance to Europol's selection procedure, in particular by providing the written tests and/or defining the content of these tests.

- (e) The Selection Committee shall either invite selected candidates for interview, on the basis of the results of the written tests, or interview all selected candidates. The interview may be organised for the same day as the written tests.
- (f) Minutes of Committee meetings shall be drawn up setting out the reasons for any decision taken.
- (g) The Selection Committee shall propose a shortlist of successful candidates to the Contracting Authority, which may draw up a reserve list of successful candidates. This list will be valid up to 12 months from the date of its establishment and its validity may be extended once by decision of the Contracting Authority for up to 12 months.
- (h) Candidates shall be informed of the outcome of the written test and the interview and of whether they have been placed on the reserve list.

3. Interagency job market:

By derogation to paragraphs (1) and (2), the vacancy notice can be advertised in the interagency job market within the agency network at a range of grades corresponding to the functions. The post shall be restricted to temporary agents 2(a) of the same function group whose grade is within this range of grades and who meet the following criteria:

- being employed in a Regulatory Agency applying the Staff Regulations as a temporary agent 2(a) on long-term employment for permanent tasks as defined in Article 2;
- having been selected according to the procedure laid down in Article 3 (1) and (2) or, for staff engaged before the entry into force of these rules, having succeeded in a selection procedure equivalent to that referred to in Article 4(1).

Europol shall select candidates by following the same procedure as mentioned in Article 4(1).

Following the conclusion of the selection procedure, if no suitable candidates could be found in the network of Agencies, the vacancy notice may be advertised externally at the most appropriate level.

Article 4

Selection procedure carried out by Europol for short-term employment

1. Without prejudice to Articles 4(2) and 4(3), the procedure carried out by Europol to select TA2a for short-term employment shall be that set out in Article 3(2), except that the matters referred to in Article 3(2)(d) may be tested orally also during the interview.
2. For selection procedures concerning restricted posts, the Contracting Authority shall designate up to two additional members of the Selection Committee if so requested by the Chairperson of the Management Board. The additional members shall consist of a representative of the Presidency or one representative of the Presidency and one representative of another Member State.
3. In addition to the advertisement foreseen in Article 3(2)(b) Europol shall inform the Europol national units, through their respective liaison bureaux, of a vacancy for a restricted post. The national units shall inform the relevant competent authorities of the vacancy. The competent authorities shall be responsible for ensuring that the vacancy is brought to the attention of their departments and all the personnel concerned.

The vacancy notice for a restricted post shall specify that candidates must submit their applications via the national unit of the Member State concerned accompanied by a written statement from the relevant authorities in order to ensure that candidates are engaged from the competent authorities of the Member States in accordance with Article 39(4) of the Europol Decision.

4. Europol shall inform the Europol national units, through their respective liaison bureaux, about the progress of the selection process.

A candidate for a restricted post may, before he can be engaged or extended in his post, be subject to a prior national approval procedure to ensure that his posting at Europol is in conformity with national provisions for secondment, special leave or temporary outplacement.

A candidate for a restricted post shall, if required by his national authorities, submit the written permission of his national competent authorities before a TA2a contract is concluded in accordance with these rules.

Article 5

*Engagement of staff working for the Management Board Secretariat
and for the internal audit function*

The procedure carried out by Europol to select TA2a staff working for the Management Board Secretariat and for the Internal Audit Function shall be that set out in Article 3(2), except that the Selection Committee referred to in Article 3(1)(b) shall consist of the following four members: one person designated by the Chairperson of the Management Board, one member from the human resources unit of Europol, one member from the relevant unit/service and one person designated by the Staff Committee.

The member of the Selection Committee designated by the Chairperson of the Management Board shall act as chairman.

*Article 6
Grading*

1. Subject to paragraph 2, depending on the function and the level of tasks and within the limits authorised by the establishment plan of Europol, TA2a shall be engaged in principle at the following entry grades:
 - AST 1 to AST 4 for the function group AST;
 - AD 5 to AD 8 for the function group AD.
2. By way of derogation from paragraph (1):
 - a) in order to ensure high-quality recruitment, if justified by an analysis of the labour market conditions in its sector of work and if the post cannot be filled at a lower grade, Europol may engage TA2a at grade AD 9, AD 10, AD 11 or, on an exceptional basis, at grade AD 12. Such recruitments shall remain annually within the limits of 20% of AD recruited per year within Europol for long-term and short-term employment as defined in the current Staff Policy Plan approved by the Management Board. This percentage may vary within the limit of an annual average of 20 % calculated over a five years rolling period.
 - b) Successful candidates selected according to the procedure mentioned in Article 3(3) shall be recruited at the grade held in their previous agency. Article 32 of the Staff Regulations and Europol decision concerning the criteria applicable to classification in grade and step on appointment or engagement shall apply concerning the classification in step.
3. The minimum number of years of professional experience required after the award of the qualification certifying the completion of the level of studies required as a condition of eligibility for any selection procedure is as follows:

Grade of engagement	Number of years of professional experience
AD 5	0 years
AD 6	3 years
AD 7	6 years
AD 8	9 years
AD 9/10	12 years
AD 11/12	15 years
AST 1	0 years
AST 2	1 year
AST 3	3 years
AST 4	6 years

SECTION 3
Duration of contracts

Article 7
TA2a on short-term employment

TA2a on short-term employment may be engaged under their first contract for a fixed period of between one and five years. First fixed-term contracts may only be extended once for a total period which, when added to the duration of the first fixed-term contract, shall not exceed a maximum period of service of nine years. The duration of the contract shall correspond to the duration of the task.

Article 8
TA2a on long-term employment

1. TA2a on long-term employment may be engaged under their first contract for a fixed period of between one and five years. The contract may be renewed once for a fixed period which, when added to the duration of the first fixed-term contract, shall not exceed a maximum of nine years of service.
2. Any second renewal shall be for an indefinite period and shall only be awarded after having obtained, on an annual basis, the Management Board's prior consent in accordance with Article 39(4) of the Europol Decision and Article 8(3).

In order to be taken into consideration with a view to the award of a contract of indefinite duration, the TA2a contracts concerned must follow each other uninterruptedly. A gap of twelve months or more between two contracts shall be regarded as an interruption.

3. The Director shall consider on an annual basis whether, in the interests of Europol, he intends to grant contracts of indefinite duration for the next calendar year.

If the Director considers granting contracts of indefinite duration he shall, in the context of the preparation of Europol's multiannual Staff Policy Plan, request the consent of the Management Board.

The Management Board may set limits for the total number of such contracts to be granted.

4. Contracts of indefinite period shall only be awarded to TA2a on long-term employment who have been successful in a selection procedure pursuant to Article 3.

For staff engaged pursuant to Article 57 of the Europol Decision, contracts of an indefinite period can only be awarded to TA2a on long-term employment who have been successfully selected and engaged pursuant to the General Implementing Provisions of 17/11/2009 on the procedure governing the Internal Selection Process to be carried out under Article 57 of the Europol Decision.

Article 9
Period of absence

1. A former TA2a staff member, whether previously employed on short-term employment or long-term employment, may not be appointed to a new TA2a vacant post at Europol unless a period of at least twelve-month of absence has elapsed between the expiry date of the last TA2a contract and the entry into force of the new contract.

2. Any period of employment with Europol or secondment to Europol as national expert in accordance with the Management Board Decision laying down rules on the secondment of national experts to Europol of 08/07/2009, shall not be considered as a period of absence within the meaning of paragraph 1.
3. Any new TA2a contract entered into by Europol with a former temporary agent after a twelve-month period of absence has taken place in accordance with paragraph 1 shall be deemed to constitute a first contract of employment for the purpose of implementing Article 8 of the Conditions of employment.

SECTION 4

Article 10 Probationary Period

Where a member of temporary staff on short-term or long-term employment is engaged on a contract of duration of twelve months or more, he shall serve a probationary period according to Article 14 of the Conditions of employment. The report of the probationary period shall be made in accordance with the procedure set out in Article 14 of the Conditions of employment.

SECTION 5

Transitional and final provisions

Article 11 Possibility of engaging staff during the transition period

By way of derogation from Article 1 of these rules, TA2a contracts concluded pursuant to the transitional provisions of Article 57 of the Europol Decision shall be entered into in accordance with the General Implementing Provisions of 17/11/2009 on the procedure governing the Internal Selection Process to be carried out under Article 57 of the Europol Decision.

Article 12 Entry into force

These rules shall enter into force from the date following that of their adoption.

Done at The Hague on 30/07/2010

Signed by Mr Francisco José Aranda

For the Management Board

The Chairperson