



Management Board

The Hague, 13 December 2017

EDOC #887871v26

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 the 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 procedures governing the engagement and the use of temporary agents at Europol of 30 July 2010 or as amended thereafter,

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.
- (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.

¹ OJ L 135, 24.5.2016, p. 53.

² OJ L 287, 29.10.2013, p. 15.

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- (3) According to the same Article 53(2), the Management Board should 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 may be awarded only fixed-term contracts, renewable once for a fixed period, and that such staff shall be temporary agents under Article 2(f) of the Conditions of Employment.
- (4) Article 53(2) of the Europol Regulation aims essentially 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, i.e. 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.
- (6) For the purposes of determining the posts for which staff can only be recruited from the competent authorities of the Member States, the Management Board now defines – instead of mainly referring to the services the post is located in – restricted posts based upon the performance of certain functions. This new and wide approach is implemented by making all functions/ posts in the Operations Directorate (hereafter "O Directorate" or "OD"), which are occupied by staff of the function group of administrators (AD), per definition restricted. In a second step, the functions (job profiles) are defined among the restricted posts in the O Directorate which shall be filled without limitation to candidates coming from a competent authority, so also by persons from outside 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 being defined as non-restricted.
- (7) With the aim to select the most suitable candidates and to ensure Europol's ability to provide the MS 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 should be given that some functions are performed by temporary staff selected without limitation to candidates having a law enforcement background. 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 in the O Directorate, 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.
- (8) 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, as the case under the Management Board Decision of 11 February 2011 –, which promotes legal certainty and transparency.
- (9) 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

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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.

- (10) 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 will remain the prerogative of the Management Board.
- (11) It is appropriate that the Management Board evaluate the lists set out in the Annexes of the decision regularly and that it receives frequent updates on the amount of restricted posts filled without limitation to candidates coming from a competent authority of the Member States.
- (12) For sake of the principles of duty of care, 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 authorities shall mean all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences.
3. The Member State concerned shall inform Europol whether it considers a candidate for a restricted post as being employed by one of its competent national authorities or not.

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.

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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 the candidates.
2. Without a separate decision of the Management Board pursuant to paragraph 1 being required,
 - the restricted posts indicated in Annex II are to be filled without limitation to candidates coming from a competent authority;
 - the restricted posts indicated in Annex III are to be filled with limitation to staff engaged from the competent authorities of the Member States; should Europol thereby not be able to fill such a post, it shall subsequently be filled with limitation to candidates who are employed, at the closing date of the vacancy notice, by a public sector authority or body.

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 procedure for restricted posts, as defined in the 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 of 30 July 2010³ 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, who were originally recruited on non-restricted posts and are currently occupying the said posts in the Operations Directorate and whose posts would now otherwise be affected by this decision, including the eligibility for a contract of indefinite duration on the occasion of a possible second renewal of the said contract.
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.

³ Article 4(3), second sub-paragraph, of this Decision foresees 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.

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Article 5

1. The Management Board Decision of 11 February 2015 (EDOC #759645v2) 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 basis⁴. The Management Board shall receive a yearly update on the amount of restricted posts filled in accordance with Article 3(2) and (3).

Done at The Hague on 13 December 2017

A handwritten signature in blue ink, appearing to be 'H. van der...' with a stylized flourish at the end.

Chairperson of the Management Board

⁴ The latest evaluation was performed by the Management Board at its 13-14 December 2018 meeting.

ANNEX I

The following functions are to be performed by temporary staff recruited to occupy a restricted post⁵:

- All functions in the Operations Directorate performed by staff on administrator (AD) posts⁶.

In addition:

- Deputy Executive Director of the Governance Directorate⁷;
- Head of Department Corporate Affairs Bureau (EDOC #897915);
- Head of Unit Corporate Communications (EDOC #897943);
- Head of Unit Security Department (EDOC #901629).

⁵ Without prejudice to staff members referred to in Article 4 of the Decision.

⁶ With the exception of the Administrative Coordinator.

⁷ 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 in the Operations Directorate 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 - Grant manager

Some profiles were created under EMPACT SUPPORT UNIT to manage the provision of grants, such as the Contract Agent (CA) Grant Manager as well as the financial officer. Special skills are needed for this function, which are not necessarily linked to law enforcement background. It would therefore be valuable for the organisation to convert this Contract Agent into a Temporary Agent, to be filled without restriction as to the candidates, working within HOS of the Operations Directorate. Due to the nature of the work and responsibilities, it should preferably be a senior expert.

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

b) (Senior) Specialist - Coordinator within Operations Directorate Finance

The job profile of the OD Finance 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 OD Finance coordinator will mainly focus on the Directorate's financial, HR and procurement-/ grant-related planning, monitoring 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

c) 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.

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

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d) (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 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.

e) (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.

f) (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

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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.

g) (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 MS 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.

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:¹

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 OD 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 OD-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.

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