

Official Journal

of the European Communities

ISSN 0378-6986

C 26

Volume 42

30 January 1999

English edition

Information and Notices

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Price: EUR 19,50

(Acts adopted under Title VI of the Treaty on European Union)

COUNCIL ACT

of 3 November 1998

adopting rules applicable to Europol analysis files

(1999/C 26/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 10(1) thereof,

Taking account of the Convention on the Protection of Individuals with regard to Automatic Processing of Personal Data, adopted by the Council of Europe on 28 January 1981,

Taking account of Recommendation No R(87)15 of the Committee of Ministers of the Council of Europe of 17 September 1987 regulating the use of personal data in the police sector,

Having regard to the draft rules submitted by the Management Board,

Whereas it is for the Council, acting unanimously, to adopt implementing rules for work files for the purpose of analysis,

identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

(b) 'analysis work file' means a file opened for the purpose of analysis as referred to in Article 10(1) of the Europol Convention;

(c) 'analysis' means the assembly, processing or utilisation of data with the aim of helping a criminal investigation, in accordance with Article 10(2) of the Europol Convention;

(d) 'processing of personal data' ('processing') means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

HAS ADOPTED THE FOLLOWING RULES:

Article 2

CHAPTER I

Scope

GENERAL PRINCIPLES

The rules laid down in this text shall apply to the processing of data for analysis purposes, as referred to in Article 10(1) of the Europol Convention.

Article 1

Definitions

Article 3

For the purposes of these rules:

Data supplied for the purposes of analysis

(a) 'personal data' means any information relating to an identified or identifiable natural person: an

1. Data may be offered for inclusion in an analysis work file both in structured and unstructured forms. The

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

Member State supplying the data shall notify Europol of the purpose for which the data are supplied and of any restriction on their use, deletion or destruction, including possible access restrictions in general or specific terms. The Member States may also inform Europol of any such restrictions at a later stage.

Europol must ensure that third parties supplying such data notify Europol of the purpose for which the data are supplied and of any restriction on their use.

After receipt, it shall be determined as soon as possible in which analysis work file the data may be included, and to what extent the data shall be included in that file.

2. In accordance with Article 15(1) of the Europol Convention, such data shall remain under the responsibility of the Member State which supplied the data, and subject to its national legislation, until they have been included in an analysis work file, without prejudice to Europol's responsibilities for the data as outlined in this paragraph.

Europol shall be responsible for ensuring that such data may be accessed only by the Member State which supplied the data, or by a Europol analyst duly authorised in accordance with Article 10(2)(1) of the Europol Convention, for the purpose of determining whether or not the data may be included in an analysis work file.

If Europol, after appraisal, has reason to assume that data supplied are inaccurate or no longer up-to-date, it shall inform the Member State which supplied the data.

3. Data which, after appraisal, have not been selected for inclusion in an analysis work file, as well as paper files or documents containing data which have been included, shall remain under the responsibility of the Member State which supplied the data in accordance with Article 15(1) of the Europol Convention, and subject to its national legislation, without prejudice to Europol's responsibilities for the data as outlined in this paragraph.

Europol shall be responsible for ensuring that such data, paper files or documents are stored separately from the analysis work file, and may be accessed only by the Member State which supplied the data, or by a Europol analyst duly authorised in accordance with Article 10(2)(1) of the Europol Convention, for the purpose of:

- (a) their later inclusion in an analysis work file;
- (b) verifying whether the data which already have been included in the analysis file are accurate and relevant;

- (c) verifying whether the requirements contained in these rules or the Europol Convention have been met.

Such data may also be accessed in the interests of the data subject which require protection. In this case the data may only be used with the consent of the individual concerned.

Such data, paper files and documents shall be returned to the Member State which supplied them, or be deleted or destroyed, if they are no longer necessary for the purposes outlined above. They must be deleted or destroyed in any case after the closure of an analysis work file.

4. Where the data as referred to in this Article have been supplied by a third party, Europol shall be responsible for ensuring that the principles laid down in this Article shall be applied to such data, following the rules laid down by the Council in accordance with Article 10(4) of the Europol Convention.

Article 4

Processing of data

1. Where this is necessary to achieve the objective laid down in Article 2 of the Europol Convention, personal data as outlined in Articles 5 and 6 may be processed by Europol to the extent that they are adequate, accurate, relevant, and not excessive in relation to the purpose of the analysis work file in which they are included, and provided that they are stored for no longer than necessary for this purpose. The necessity of keeping the data stored for the purpose of the analysis work file shall be reviewed regularly in accordance with Article 7 of these rules and Article 21 of the Europol Convention.

2. Each Member State involved in an analysis project shall, in accordance with its national legislation as specified in Article 10(3) of the Europol Convention, decide on the extent to which it can supply such data.

Article 5

Orders opening analysis work files

1. In each order opening an analysis work file as referred to in Article 12 of the Europol Convention, Europol shall specify which of the categories of data mentioned in Article 6 it considers to be necessary for the purpose of the analysis work file concerned.

2. Europol shall also specify in this order whether data relating to racial origin, religious or other beliefs, political

opinions, sexual life or health may be included in the analysis work file under the categories mentioned in Article 6, and why such data are considered to be absolutely necessary for the purpose of the analysis work file concerned.

Where the data mentioned above relate to the categories of persons mentioned in Article 6(3) to (6), specific grounds for requiring them must be added in the order opening the file, and such data shall be processed only at the explicit request of two or more of the Member States participating in the analysis project. The data concerned shall be deleted when they are no longer necessary for the purposes for which they were stored.

3. The orders mentioned in this Article, including later amendments, shall require the approval of the Management Board of Europol, taking account of any comments thereon by the Joint Supervisory Body, in accordance with Article 12(1) and (2) of the Europol Convention.

Article 6

Personal data in analysis work files

1. Whenever personal data are stored in work files for the purposes of analysis, a note shall be added which refers to the category of persons under which the data are stored.

2. The following categories of personal data, including associated administrative data, may be processed on the categories of persons referred to in Article 10(1)(1) of the Europol Convention:

(a) Personal details:

1. Present and former surnames
2. Present and former forenames
3. Maiden name
4. Father's name (where necessary for the purpose of identification)
5. Mother's name (where necessary for the purpose of identification)
6. Sex
7. Date of birth
8. Place of birth
9. Nationality
10. Marital status
11. Alias
12. Nickname
13. Assumed or false name
14. Present and former residence and/or domicile

(b) Physical description

1. Physical description
2. Distinguishing features (marks/scars/tattoos etc.)

(c) Identification means:

1. Identity documents
2. National identity card/passport numbers
3. National identification numbers, if applicable
4. Visual images and other information on appearance
5. Forensic identification information such as fingerprints, DNA evaluation results (to the extent necessary for identification purposes and without information characterising personality), voice profile, blood group, dental information

(d) Occupation and skills:

1. Present employment and occupation
2. Former employment and occupation
3. Education (school/university/professional)
4. Qualifications
5. Skills and other fields of knowledge (language/other)

(e) Economic and financial information:

1. Financial data (bank accounts and codes, credit cards etc.)
2. Cash assets
3. Share holdings/other assets
4. Property data
5. Links with companies
6. Bank and credit contacts
7. Tax position
8. Other information revealing a person's management of their financial affairs

(f) Behavioural data:

1. Lifestyle (such as living above means) and routine
2. Movements
3. Places frequented
4. Weapons and other dangerous instruments
5. Danger rating
6. Specific risks such as escape probability, use of double agents, connections with law enforcement personnel
7. Criminal-related traits and profiles
8. Drug abuse

- (g) Contacts and associates, including type and nature of contact or association
- (h) Means of communication used, such as telephone (static/mobile), fax, pager, electronic mail, postal addresses, Internet connection(s)
- (i) Means of transport used, such as vehicles, boats, aircraft, including information identifying these means of transport (registration numbers)
- (j) Information relating to criminal activities for which Europol has competence under Article 2 of the Europol Convention:
1. Previous convictions
 2. Suspected involvement in criminal activities
 3. *Modi operandi*
 4. Means which were or may be used to prepare and/or commit crimes
 5. Membership of criminal groups/organisations and position in the group/organisation
 6. Situation and function in the criminal organisation
 7. Geographical range of criminal activities
 8. Material gathered in the course of an investigation, such as video and photographic images
- (k) References to other databases in which information on the person is stored:
1. Europol
 2. Police/customs agencies
 3. Other enforcement agencies
 4. International organisations
 5. Public bodies
 6. Private bodies
- (l) Information on legal persons associated with the data referred to under (e) and (j):
1. Designation of the legal person
 2. Location
 3. Date and place of establishment
 4. Administrative registration number
 5. Legal form
 6. Capital
 7. Area of activity
 8. National and international subsidiaries
 9. Directors
 10. Links with banks.

3. Contacts and associates, as mentioned under Article 10(1)(4) of the Europol Convention, are deemed to be persons who have other than accidental contacts with the persons under paragraph 2 to the extent that there is sufficient reason to believe that information which relates to the persons under paragraph 2 and which is relevant for the analysis can be gained through them, and provided they are not included in one of the categories of persons mentioned under paragraphs 2 or 4 to 6.

Regarding contacts and associates, the data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of the role of such persons as contacts or associates.

In this context, the following should be taken into account:

- the relationship of these persons with the persons under paragraph 2 shall be clarified as rapidly as possible,
- if the assumption pursuant to the first subparagraph turns out to be unfounded, the data shall be deleted without delay,
- if such persons are suspected of committing an offence for which Europol has competence under Article 2 of the Europol Convention, or have been convicted for such offences, or there are serious grounds under national law for believing that they will commit such offences, all data pursuant to paragraph 2 may be stored,
- if a clarification pursuant to the previous indents is not possible, this shall be taken into account when deciding on the necessity and the extent of storage for the further analysis,
- data on contacts and associates of contacts and associates must not be stored, except for data on the type and nature of their contacts or associations with the persons mentioned under paragraph 2.

4. With regard to persons who have been victims of one of the offences under consideration or with regard to whom certain facts give reason for believing that they could be the victims of such an offence as mentioned in Article 10(1)(3) of the Europol Convention, data may be stored pursuant to paragraph 2, (a) to (c)(3), as well as the following categories of data:

- (a) Victim identification data
- (b) Reason for victimisation
- (c) Damage (physical/financial/psychological/other)
- (d) Anonymity to be guaranteed

- (e) Participation in court hearing possible
- (f) Crime-related information provided by or through such persons, including information on their relationship with other persons where necessary to identify the persons as mentioned in paragraph 2.

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of a person's role as victim or potential victim.

Data not required for any further analysis shall be deleted.

5. With regard to persons who might be called upon to testify in investigations in connection with the offences under consideration or in subsequent criminal proceedings as mentioned in Article 10(1)(2) of the Europol Convention, data may be stored pursuant to paragraphs 2, points (a) to (c)(3), as well as categories of data complying with the following criteria:

- (a) Crime-related information provided by such persons, including information on their relationship with other persons included in the analysis work file
- (b) Anonymity to be guaranteed
- (c) Protection is guaranteed and by whom
- (d) New identity
- (e) Participation in court hearing possible

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as witnesses.

Data not required for any further analysis shall be deleted.

6. With regard to persons who can provide information on the criminal offences under consideration as mentioned in Article 10(1)(5) of the Europol Convention, data may be stored pursuant to paragraph 2, (a) to (c)(3), as well as categories of data complying with the following criteria:

- (a) Coded personal details
- (b) Type of information supplied
- (c) Anonymity to be guaranteed
- (d) Protection to be guaranteed and by whom
- (e) New identity
- (f) Participation in court hearing possible

- (g) Negative experiences
- (h) Rewards (financial/favours).

Other data pursuant to paragraph 2 may be stored as necessary, provided there is reason to assume that they are required for the analysis of such persons' role as informants.

Data not required for any further analysis shall be deleted.

7. If, at any moment during the course of an analysis, it becomes clear on the basis of serious and corroborating indications that a person included in an analysis work file should be included in a different category of persons as defined in this Article from the category in which he was initially included, Europol may process data only on such a person allowed under this new category, and all other data shall be deleted.

If, on the basis of such indications, it becomes clear that a person should be included in two or more different categories as specified in this Article, all data allowed under such categories may be processed by Europol.

Article 7

Time-limits for examination and duration of storage

1. When a decision is taken on whether personal data should continue to be stored under Article 6 within the meaning of Article 21 of the Europol Convention, the interests of Europol in performing its tasks need to be weighed against the legitimate data protection interests of the data subject concerning whom data are stored.

The need for continued storage of all personal data included in an analysis work file shall be reviewed annually. Notwithstanding this annual review, the need for continued storage shall be reviewed if circumstances arise which suggest that the data have to be deleted or corrected.

The review shall take account of the need to retain data in the light of the conclusion of an enquiry into a particular case, a final judicial decision, in particular an acquittal, rehabilitation, spent convictions, amnesties, the age of the data subject, particular categories of data.

The need for continued storage of personal data in an analysis work file shall be judged by the participants in

the analysis in accordance with Article 10(8) of the Europol Convention. Where no agreement can be reached by the participants on the need for continued storage of the data, a decision shall be taken by the Management Board in accordance with Article 28(1)(7) of the Europol Convention.

2. Where criminal proceedings against persons under Article 6(2) are, without possibility of appeal, concluded either by court decision or otherwise, and that decision is notified to Europol by the Member State or third party concerned, Europol shall verify whether the data affected by such decision may still be stored, modified or utilised. If it can be assumed from the reasons for the decision or from other intelligence that the person concerned has not, or not unlawfully, committed the offence, or if the reasons for the decision leave this question open, the data affected by this decision shall be deleted, unless there are substantial grounds for assuming that they are still relevant for the purpose of the analysis work file. In that case, information concerning the Court decision shall be added to the data already included in the file. Furthermore, these data may be processed and kept only with due respect to the context and the pronouncement of the aforementioned decision and to the rights it gives to the person concerned.

3. Personal data may not be stored for more than a total of three years. This time limit shall begin to run afresh on the date on which an event leading to the storage of data relating to the individual concerned occurs. Where, due to the time limit running afresh, data concerning persons as referred to in Article 6(3) to (6) are stored in an analysis file for a period exceeding five years, the Joint Supervisory Body shall be informed accordingly.

4. If, during the course of review of Europol's activities by the Joint Supervisory Body referred to in Article 24 of the Europol Convention, it is discovered that personal data are being kept in contravention of these rules, the Joint Supervisory Body shall inform the Director of this as it deems necessary, in accordance with Article 24(5) of the Europol Convention.

When the Joint Supervisory Body according to Article 24(5) of the Europol Convention has referred a matter concerning deletion obligations to the Management Board, the transmission of the data concerned shall be prohibited without prior authorisation of the Management Board. In exceptional cases, the Director may authorise the transmission of the data prior to the approval of the Management Board, where this is considered to be absolutely necessary to safeguard the essential interests of the Member States concerned within the scope of the objective of Europol, or in the interest of preventing a serious and imminent danger. In such cases, the authorisation by the Director shall be laid down in a document, which shall be forwarded to the Management Board and the Joint Supervisory Body.

Article 8

Collection and recording of data

Data stored in files for analysis purposes shall be distinguished according to the assessment grading of the source and the degree of accuracy or reliability of the information, in accordance with Article 11. Data based on facts shall be distinguished from data based on opinions or personal assessments.

Article 9

Internal data protection

The Director of Europol shall take the measures needed to ensure compliance with these rules and with other data protection provisions. To this end, he shall appoint an experienced member of staff whose duties make him directly answerable to the Director.

CHAPTER II

CLASSIFICATION

Article 10

Classes of analysis files

Work files for the purposes of analysis may be:

- (a) general or strategic, where the aim is to process relevant information concerning a particular problem or to develop or improve initiatives by the competent authorities referred to in Article 2(4) of the Europol Convention;
- (b) operational, where the aim is to obtain information on one or more of the criminal activities referred to in Article 2 of the Europol Convention, which relates to a case, person or organisation, in order to commence, assist or conclude, in accordance with Article 10(2) of the Europol Convention, bilateral or multilateral investigations of an international nature, provided that two or more Member States are among the parties concerned.

Article 11

Assessment of the source and of the information

1. The source of information originating from a Member State shall be assessed as far as possible by the Member State supplying the information on the basis of the following criteria:

- A. where there is no doubt of the authenticity, trustworthiness and competence of the source, or if the information is supplied by a source who, in the past, has proved to be reliable in all instances;
- B. source from whom information received has in most instances proved to be reliable;
- C. source from whom information received has in most instances proved to be unreliable;
- D. the reliability of the source cannot be assessed.

2. Information originating from a Member State shall be assessed as far as possible by the Member State supplying the information on the basis of its reliability in accordance with the following criteria:

- (1) information whose accuracy is not in doubt;
- (2) information known personally to the source but not known personally to the official passing it on;
- (3) information not known personally to the source but corroborated by other information already recorded;
- (4) information which is not known personally to the source and cannot be corroborated.

3. If Europol — on the basis of information already in its possession — comes to the conclusion that the assessment needs correction, it shall inform the Member State concerned and seek to agree on an amendment to the assessment. Europol shall not change the assessment without such agreement.

4. If Europol receives data or information from a Member State without an assessment, Europol shall attempt as far as possible to assess the reliability of the source or the information on the basis of information already in its possession. The assessment of specific data and information must take place in agreement with the supplying Member State. A Member State and Europol may also agree in general terms on the assessment of specified types of data and specified sources. The Management Board shall be informed of such general agreements. If data have been supplied to Europol on the basis of such general agreements, this shall be noted with the data.

If no agreement is reached in a specific case, or no agreement in general terms exists, Europol shall evaluate the information or data as at paragraph 1(D) and 2(4) above.

5. If Europol receives data or information from a third party, this Article shall apply accordingly.

6. Where information included in an analysis work file is the result of an analysis, Europol shall assess such information in accordance with this Article, and in agreement with the Member States participating in the analysis.

CHAPTER III

RULES FOR THE USE OF ANALYSIS FILES AND ANALYSIS DATA

Article 12

Opening files

1. Work files for analysis purposes shall be opened on the initiative of Europol or at the request of the Member States supplying the data, in accordance with the procedure established in Article 12 of the Europol Convention.

2. In accordance with Article 12(1) of the Europol Convention, the Joint Supervisory Body may forward its comments in writing to the Management Board. The Management Board shall allow the Joint Supervisory Body a period of two months to perform this task. A copy of the written observations shall be forwarded to the Director of Europol.

The Management Board may invite representatives of the Joint Supervisory Body to take part in its discussions on the orders opening analysis work files.

3. In accordance with Article 12(2) of the Europol Convention, the Director of Europol shall give reasons in writing for the urgency of opening a file.

To that end, he shall without fail inform the members of the Management Board of the name, subject and purposes of the file as well as any information needed to evaluate its urgency.

Analysis activities may begin immediately after the procedure laid down in Article 12(1) of the Europol Convention has been initiated, but the results may not be transmitted until the Management Board has given its approval in accordance with the procedure laid down in Article 12(1) of the Europol Convention. Should the Management Board refuse to give its approval, the data shall be deleted immediately.

In exceptional cases, the Director may authorise the transmission of the results prior to the approval of the Management Board, where this is considered to be absolutely necessary to safeguard the essential interests of the Member States concerned within the scope of the objective of Europol, or in the interest of preventing a serious and imminent danger. In such cases, the authorisation by the Director shall be laid down in a document, which shall be forwarded to the Management Board and the Joint Supervisory Body.

4. If, during the course of an analysis, it becomes necessary to amend the order opening the analysis work file, the procedures outlined in Article 12 of the Europol Convention and this Article shall apply accordingly.

Article 13

Transmission of data or information held in analysis files

Transmission of personal data contained in analysis files to any Member State or third party shall be recorded in the file concerned.

In collaboration with the Member State or third party providing the data, Europol shall where necessary check that the data are accurate and consistent with the Europol Convention no later than at the time of transmission. As far as possible, all communications shall indicate judicial decisions, as well as decisions not to prosecute, with data based on opinions or personal assessments being checked in cooperation with the Member State or third party who supplied the information before being communicated and their degree of accuracy or reliability indicated.

The recipient Member State shall inform the Member State transmitting the data, at its request, of the use made of the data transmitted and the results subsequently obtained, where the national legislation of the recipient Member State so allows.

Should there be any restrictions on the use of data under Article 17 of the Europol Convention, these shall be recorded with the data, and the recipients of analysis results shall be informed thereof.

Article 14

Control procedures

It shall be ensured that the data security provisions laid down in Article 25 of the Europol Convention are met by drawing up a security plan for data processing by Europol and by constantly updating it in accordance with the assessed security risk to Europol. The security plan shall be approved by the Management Board.

Article 15

Use and storage of analysis data and analysis results

1. All personal data and analysis results transmitted from an analysis work file may be used only in

accordance with the purpose of the file or to combat other serious forms of crime, and in accordance with any restrictions on use as specified by a Member State on the basis of Article 17(2) of the Europol Convention. The data referred to in Article 5(2) of these rules may be transmitted only by agreement with the Member State which supplied such data.

2. After the closure of an analysis work file, all data contained in that file shall be stored by Europol in a separate file, which shall only be accessible for the purposes of internal or external control. Without prejudice to Article 21(5) of the Europol Convention, such data shall be kept for no longer than three years after the closure of the file.

3. The results of an analysis work file may be stored by Europol in electronic form for a maximum period of three years after the closure of the file concerned, provided they are stored in a separate file, and no new data are added to them. After this period the results may be stored only in the form of a paper document.

4. In order to check the permissibility of retrievals of personal data from the work files for the purposes of analysis, for at least one in ten retrievals a report shall be drawn up automatically in accordance with Article 16 of the Europol Convention.

The report shall contain a unique reference number relating to the user identification, the date and time of the retrieval and the identity of the person concerning whom data were accessed and displayed, as well as to the analysis work file from which the data were retrieved.

Such reports shall be used and deleted in accordance with the second sentence of Article 16 of the Europol Convention and any regulations based on the third sentence of that Article.

5. It may be specified in the order opening an analysis work file that more reports than specified in paragraph 4 must be drawn up, or that such reports must contain more data than specified in paragraph 4, taking account of the regulations based on the third sentence of Article 16 of the Europol Convention.

Article 16

Combination of files

1. Where it becomes apparent that information contained in an analysis work file may also be relevant for different analysis work files, the following procedures shall be followed:

- (a) Where a complete combination of the information in two files is proposed, a new file containing all the information in both files shall be established in accordance with Article 12 of the Europol Convention. The decision to combine the two files shall be reached by all the participants in both the original files. The participants in each of the original files shall decide whether or no to close that file.
- (b) Where all or some of the information in one file is relevant to another file, the participants in the first file shall decide whether or not this information should be transferred to the second. Where the transfer results in a need to amend the order opening either file, a new order shall be established in accordance with Article 12 of the Europol Convention to govern that file. The participants in each of the original files shall also decide whether or not to close that file.

2. In the circumstances mentioned in paragraph 1, the time-limits for the review of data transferred from one analysis work file to another shall not be affected by such transfer.

Article 17

New technical means

New technical means for processing data for analysis purposes may be introduced only if all reasonable measures for ensuring that their use is consistent with the rules on the protection of personal data applicable to Europol have been adopted. The Director of Europol shall consult beforehand with the Joint Supervisory Body in all cases where the introduction of such technical

means raises problems for the application of these data protection rules.

CHAPTER IV

FINAL PROVISIONS

Article 18

Entry into force

These rules shall enter into force on 1 January 1999.

Within three years following their entry into force, these rules shall be evaluated under the supervision of the Management Board.

Article 19

Review of the rules

Any proposals for amendments to these rules shall be considered by the Management Board with a view to their adoption by the Council in accordance with the procedure provided in Article 10(1) of the Europol Convention.

Done at Brussels, 3 November 1998.

For the Council
The President
B. PRAMMER

COUNCIL ACT

of 3 November 1998

adopting rules on the confidentiality of Europol information

(1999/C 26/02)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 31(1) thereof,

Having regard to the draft rules submitted by the Management Board,

Whereas it is for the Council, acting unanimously, to adopt appropriate rules on the confidentiality of information which is obtained by or exchanged with Europol on the basis of the Europol Convention,

HAS ADOPTED THE FOLLOWING RULES:

CHAPTER I

DEFINITIONS AND SCOPE

Article 1

Definitions

For the purposes of these rules,

- (a) 'processing of information' ('processing') means any operation or set of operations which is performed on personal or non-personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction;
- (b) 'third party' means a third State or body as referred to in Article 10(4) of the Convention;
- (c) 'Europol Security Committee' means the Committee consisting of representatives of the Member States and Europol described in Article 3;
- (d) 'Europol Security Coordinator' means the Deputy Director to whom the Director of Europol — in pursuance of Article 29(2) of the Europol Convention — assigns, alongside his other tasks, the function of coordination and control in matters of security;
- (e) 'Europol Security Officer' means the Europol officer appointed by the Director of Europol and responsible for security issues in accordance with Article 5;
- (f) 'Security Manual' means the manual implementing these rules, to be established in accordance with Article 6;
- (g) 'security level' means a security marking of Europol 1, 2, 3 assigned to a document processed by or through Europol as mentioned in Article 8;
- (h) 'security package' means a specified combination of security measures to be applied to information subject to a Europol security level as mentioned in Article 8;
- (i) 'basic protection level' means the level of protection which will be applied to all information processed by or through Europol, except information which is expressly marked or is clearly recognisable as being public information, as mentioned in Article 8(1).

Article 2

Scope

1. These rules establish the security measures to be applied to all information which is processed by or through Europol within its organisation.
2. Member States undertake to ensure that such information shall, within their territory, receive a level of protection which is equivalent to the level of protection offered by these measures.
3. Electronic links between Europol and the national units of the Member States shall provide a level of protection which is equivalent to the level offered by these measures. A common standard for these electronic links shall be approved unanimously by the Security Committee after consulting the competent authorities of the Member States.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

4. The Annex hereto shows an overview of the Europol security levels, as referred to in Article 8, and the equivalent markings currently applied by the Member States to information subject to those security levels. When a Member State informs the other Member States and Europol of any changes in the national provisions on security levels or in the equivalent markings, Europol will elaborate a revised version of the abovementioned overview. At least once a year the Europol Security Committee shall ascertain whether or not the overview is up-to-date.

CHAPTER II

SECURITY RESPONSIBILITIES

Article 3

Europol Security Committee

1. A Europol Security Committee shall be set up, consisting of representatives of the Member States and of Europol, which shall meet at least once a year.
2. The Europol Security Committee shall have as its task to advise the Management Board and Director of Europol on issues relating to security policy and including the application of the Security Manual.
3. The Europol Security Committee shall establish its rules of procedure. The meetings of the Europol Security Committee shall be chaired by the Security Coordinator.

Article 4

Security Coordinator

1. The Security Coordinator shall have general responsibility for all issues relating to security, including the security measures laid down in these rules and the Security Manual. He shall monitor the enforcement of security provisions and inform the Director of all breaches of security, who shall, in serious cases, inform the Management Board. If such a breach risks compromising the interests of a Member State, that Member State shall also be informed.
2. The Security Coordinator shall be directly answerable to the Director of Europol.

Article 5

Security Officer

1. The responsibility for the practical implementation of the security measures laid down in these rules and in the Security Manual shall lie with the Europol Security

Officer, who shall be directly answerable to the Security Coordinator. The specific tasks of the Security Officer shall be:

- (a) the management of the Security Unit of Europol;
- (b) to instruct, assist and advise Europol staff and liaison officers as to their duties under these rules and the Security Manual;
- (c) to enforce security provisions, investigate breaches of such provisions and report on them as soon as possible to the Security Coordinator;
- (d) continuous review of the adequacy of security measures on the basis of threat assessments. To that end he shall report to the Security Coordinator as a rule at least once a month and — in exceptional cases — whenever it is deemed necessary and shall make observations and suggestions;
- (e) tasks assigned to him under these rules or the Security Manual;
- (f) other tasks assigned to him by the Security Coordinator.

2. The Security Officer must have security clearance to the highest level under the regulations applicable in the Member State of which he is a national.

Article 6

Security Manual; procedure and contents

1. The Security Manual shall be adopted by the Management Board after consultation with the Security Committee.
2. The Security Manual shall contain:
 - (a) detailed rules on the security measures to be applied within the Europol organisation in order to provide for a basic protection level as mentioned in Article 8(1) of these rules, such measures being based on Articles 25 and 32(2) of the Europol Convention and taking Article 31(3) of that Convention into account;
 - (b) detailed rules on the security measures associated with the different Europol security levels and the corresponding security packages as mentioned in Article 8(2) and (3).
3. Amendments to the Security Manual shall be adopted in accordance with the procedure outlined in paragraph 1.
4. For the Europol Computer System and any other computer systems employed at Europol used to process protectively marked information, a 'System Specific Security Requirement' (SSSR) shall be adopted and

amended in accordance with the procedure outlined in paragraph 1. This System Specific Security Requirement shall comply with relevant provisions of the Security Manual.

Article 7

Observance

The security measures laid down in these rules and in the Security Manual shall be observed by all Europol staff and liaison officers, as well as any other person under a particular obligation of discretion or confidentiality.

CHAPTER III

GENERAL PRINCIPLES

Article 8

Basic protection level, security levels and security packages

1. All information processed by or through Europol, except information which is expressly marked or is clearly recognisable as being public information, shall be subject to a basic protection level within the Europol organisation as well as in the Member States. Information which is subject only to the basic protection level shall not require a specific marking of a Europol security level, but shall be designated as Europol information.

2. In accordance with Article 2(2), Member States shall ensure the application of the basic protection level mentioned in paragraph 1, by a variety of measures in accordance with national legislation and regulations, including the obligation of discretion and confidentiality, limiting access to information to authorised personnel, data protection requirements as far as personal data are concerned and general technical and procedural measures to safeguard the security of the information, taking Article 25(2) of the Europol Convention into account.

3. Information requiring additional security measures shall be subject to a Europol security level, which shall be indicated by a specific marking. Information shall be assigned such a security level only where strictly necessary and for the time necessary.

4. The Europol security levels will be numbered 'Europol level 1 to 3',

Europol 1: this level is applicable to information the unauthorised circulation of which would result in serious harm to the essential interests of Europol, or of one or more Member States.

Europol 2: this level is applicable to information the unauthorised circulation of which would result in very serious harm to the essential interests of Europol, or of one or more Member States;

Europol 3: this level is applicable to information the unauthorised circulation of which would result in extremely serious harm to the essential interests of Europol, or of one or more Member States.

Each Europol security level shall relate to a specific security package, to be applied within the Europol organisation. The security packages shall offer different levels of protection, depending on the content of the information, and taking account of the detrimental effect which unauthorised access, dissemination or use of the information might have on the interests of the Member States or Europol. Europol levels 1 to 3 shall — with respect to the security measures to be applied — correspond as far as possible to existing international standards.

When information protectively marked at different levels is gathered, the security level to be applied shall be at least as high as that applicable to the information protected at the highest level. At all events, a group of information may be given a higher protection level than that of each of its parts.

The translation of protectively marked documents shall be subject to the same protection as the originals.

5. The security packages shall consist of various measures of a technical, organisational or administrative nature, as laid down in the Security Manual. They shall include permitted usage of the data subject to Article 17 of the Europol Convention, from unrestricted use to no use without the originator's consent.

Article 9

Choice of security level

1. The Member State supplying information to Europol shall be responsible for the choice of any appropriate security level for such information in accordance with Article 8. The Member State shall, where necessary, mark the information with a Europol security level as referred to in Article 8(4), when supplying it to Europol.

2. In choosing any security level, Member States shall take account of the classification of the information under their national regulations, as well as of the need for the operational flexibility required for Europol to function adequately.

3. If Europol — on the basis of information already in its possession — comes to the conclusion that the choice of a security level needs amendment (e.g. a possible removal or addition of such a level, including the addition of a security level to a document previously subject to the basic protection level), it shall inform the Member State concerned and seek to agree on an appropriate security level. Europol shall not specify, change, add or remove a security level without such agreement.

4. Where information generated by Europol is based upon or contains information supplied by a Member State, Europol shall determine in agreement with the Member State concerned whether the basic protection level is sufficient or whether the application of a Europol security level is required.

5. Where information is generated by Europol itself, and such information is not based upon nor contains information supplied by a Member State, Europol shall determine any appropriate security level for such information, using criteria laid down by the Security Committee. Where necessary, Europol shall mark the information accordingly.

6. Member States and Europol shall, where information also concerns the essential interests of another Member State, consult that Member State on whether any security level should be applied to that information and if so which security level should be applied.

Article 10

Amendment of security levels

1. A Member State which has supplied information to Europol may at any time require an amendment of any chosen security level, including a possible removal or addition of such a level. Europol shall be obliged to remove, amend or add a security level in accordance with the wishes of the Member State concerned.

2. The Member State concerned shall, as soon as circumstances allow, request that the security level in question be downgraded or removed altogether.

3. A Member State supplying information to Europol may specify the time period for which the choice of any security level will apply, and any possible amendments to the security level after such period.

4. Where the choice of the basic protection level or security level has been determined by Europol in accordance with Article 9(4), an amendment of the basic protection or security level shall only be effected by Europol in agreement with the Member States concerned.

5. Where the choice of the security level has been determined by Europol in accordance with Article 9(5), Europol may amend or remove the security level at any time where this is deemed necessary.

6. Where information whose security level is amended in accordance with this Article has already been supplied to other Member States, Europol shall be obliged to inform the recipients of the change of security level.

Article 11

Processing, access and security clearance

1. Access to and possession of information shall be restricted within the Europol organisation to those persons who, by reason of their duties or obligations, need to be acquainted with such information or to handle it. Persons entrusted with the processing of information shall have undergone any necessary security clearance and shall further receive special training.

2. All persons that may have access to information subject to a security level processed by Europol shall undergo security clearance in accordance with Article 31(2) of the Europol Convention and the Security Manual. The Security Coordinator shall, acting on a proposal from the Security Officer, subject to the provisions of the Security Manual, grant authorisation to those persons cleared at the appropriate national level, who by reason of their duties or obligations, need to be acquainted with information subject to a Europol security level. He shall also be responsible for ensuring the implementation of paragraph 3.

3. No person shall have access to information subject to a security level without having been granted security clearance at the appropriate level. Exceptionally however, the Security Coordinator may, after consultation of the Security Officer, give a specific and limited authorisation

to persons cleared at level 1 or 2 to have access to specific information at a higher level, if, by reason of their duties or obligations, in a specific case, they need to be acquainted with information subject to a higher Europol security level.

4. Such authorisation shall not be granted where a Member State, when supplying the information concerned, has specified that the discretion afforded to the Security Coordinator by paragraph 3, shall not be exercised in relation to that information.

Article 12

Third parties

When concluding agreements on confidentiality with third parties in accordance with Article 18(6) of the Europol Convention, or agreements in accordance with Article 42 thereof, Europol shall take account of the principles laid down in these rules and the Security Manual, which should be applied accordingly to information exchanged with such third parties.

CHAPTER IV

FINAL PROVISIONS

Article 13

Entry into force

These rules shall enter into force on 1 January 1999.

Article 14

Review of the rules

Any proposals for amendments to these rules shall be considered by the Management Board with a view to their adoption by the Council in accordance with the procedure provided for in Article 31(1) of the Europol Convention.

Done at Brussels, 3 November 1998.

For the Council
The President
B. PRAMMER

ANNEX

Table of equivalence between national classifications and corresponding Europol classifications

The following table is illustrative: the obligation on Member States is to provide an equivalent level of protection to that afforded by Europol rather than to attach a particular label.

Country	Europol Classification		
	Europol 1	Europol 2	Europol 3
Belgium ⁽¹⁾	– Diffusion restreinte – Confidentiel	Secret	Très secret
Denmark ⁽²⁾	Confidential	Secret	Top Secret
Germany ⁽³⁾	VS Nur für den Dienstgebrauch	VS Vertraulich	VS Geheim
Greece	Confidential (Εμπιστευτικό)	Secret (Απόρρητο)	Top Secret (Ακρωσ απόρρητο)
Spain	Confidencial	Reservado	Secreto
France	Confidentiel (Défense)	Secret (Défense)	Secret (Défense)
Ireland	Confidential	Secret	Top Secret
Italy	– Diffusione ristretta – Confidenziale	Segreto	Molto segreto
Luxembourg ⁽⁴⁾	– Diffusion restreinte – Confidentiel	Secret	Très secret
Netherlands ⁽⁵⁾			
Austria	The Austrian delegation will submit in due course		
Portugal	Reservado	Confidencial	– Secreto – Muito secreto
Finland	Salassapidettävä (= to be kept secret)	Salassapidettävä (= to be kept secret)	Salassapidettävä (= to be kept secret)
Sweden	Hemlig	Hemlig	Hemlig
United Kingdom	Confidential	Secret	Top Secret

⁽¹⁾ Data used by the police are rarely classified in Belgium; should it prove necessary, NATO classification will be used.

⁽²⁾ Data used by the police are rarely classified in Denmark; should it prove necessary, NATO classification will be used.

⁽³⁾ With regard to the security measures laid down by Europol for the particular levels, the German security gradings shown above shall also be held to correspond to the Europol security levels referred to in Article 8(4) of the confidentiality rules, in line with the obligation arising from Article 31(2) of the Europol Convention for Member States to arrange for the security screening of their own nationals entrusted by Europol with a sensitive activity to be carried out in accordance with their national provisions.

⁽⁴⁾ Data used by the police are rarely classified in Luxembourg; should it prove necessary, NATO classification will be used.

⁽⁵⁾ Data used by the police are rarely classified in the Netherlands; should it prove necessary, the indications for usages 00;0I and II will be used.

NOTE

As mentioned in Article 2(4) Europol shall elaborate a revised version of this overview if notified of any changes of national provisions. At least once a year the Europol Security Committee shall examine whether the overview is up-to-date. Any difficulties in applying the concept of equivalence in levels of protection shall be discussed between Member States and Europol or collectively by the Security Committee. Similarly, the Security Committee shall consider the implications for the table of any adjustment to Europol's Security packages, as set out in the Security Manual.

COUNCIL ACT

of 3 November 1998

laying down rules concerning the receipt of information by Europol from third parties

(1999/C 26/03)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 10.4 thereof,

After consulting the Management Board,

Whereas it is for the Council, acting unanimously, to lay down rules, in addition to the provisions in the Convention concerning the receipt of information by Europol from third States or third bodies, to be observed by Europol in this respect,

HAS ADOPTED THE FOLLOWING RULES:

*Article 1***Definitions**

For the purpose of these rules:

- (a) 'third States' means States not being Member States of the European Union, as referred to in Article 10(4)(4) of the Europol Convention;
- (b) 'third bodies' means the bodies referred to in Article 10(4) (1) to (3) and (5) to (7) of the Europol Convention;
- (c) 'European Union-related bodies' means the bodies referred to in Article 10(4) (1) to (3) of the Europol Convention;
- (d) 'non-European Union-related bodies' means the bodies referred to in Article 10(4) (5) to (7) of the Europol Convention;
- (e) 'agreement' means an agreement concluded for the purpose of attaining the objectives referred to in Article 2 of the Europol Convention;
- (f) 'information' means personal and non-personal data;

(g) 'personal data' means any information relating to an identified or identifiable natural person; an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

(h) 'processing of personal data' means any operation or set of operations which is performed upon personal data, whether or not by automatic means, such as collection, recording, organisation, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction.

*Article 2***Agreements**

1. Europol may conclude agreements with third States and third bodies on the receipt of information by Europol.
2. The Council shall determine the third States or non-European Union-related bodies with which agreements are to be negotiated. Such decisions shall be taken unanimously.
3. The Management Board may determine the European Union-related bodies with which agreements are to be negotiated.
4. The Director of Europol shall, after consulting the Management Board and with the unanimous authorisation of the Council, enter into negotiations on agreements with third States or non-European Union-related bodies. Agreements may be concluded only after unanimous approval by the Council, after having obtained via the Management Board the opinion of the Joint Supervisory Body as far as it concerns the receipt of personal data.
5. The Director of Europol shall, after authorisation by the Management Board, enter into negotiations on agreements with European Union-related bodies. Agreements may be concluded only after approval by the Management Board, after having obtained the opinion of the Joint Supervisory Body as far as it concerns the receipt of personal data.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

*Article 3***Assessment of the source and of the information**

1. To enable itself to determine the reliability of the information and its source, Europol shall ask the third State or third body to assess as far as possible the information and its source in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.
2. If this assessment is not provided, Europol shall attempt as far as possible to assess the reliability of the source or the information on the basis of information already in its possession in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.
3. In an agreement, Europol and a third State or third body may agree in general terms on the assessment of specified types of information and specified sources in accordance with the criteria laid down in Article 11 of the rules applicable to Europol analysis files.

*Article 4***Correction and deletion of information**

1. Agreements shall stipulate that the third State or third body shall inform Europol when it corrects or deletes the information transmitted to Europol.
2. When a third State or third body informs Europol that it has corrected or deleted the information transmitted to Europol, Europol shall correct or delete the information accordingly. Europol shall not delete information if it has further need to process that information for the purpose of the analysis file or, where the information is stored in another Europol data file, Europol has further interest in it, based on intelligence

that is more extensive than that possessed by the transmitting third State or third body. Europol shall inform the third State or third body concerned of the continued storage of such information.

3. If Europol has reason to believe that information supplied is inaccurate or no longer up-to-date, it shall inform the third State or third body which supplied the information and request the third State or third body to inform it of its position. Where information is corrected or deleted by Europol in conformity with Article 20(1) and Article 22 of the Europol Convention, Europol shall inform the supplying third State or third body of the correction or deletion.
4. Without prejudice to Article 20 of the Europol Convention, information which has clearly been obtained by a third State in obvious violation of human rights shall not be stored in the Europol information system or analysis files.
5. Agreements shall stipulate that the third State or third body shall inform Europol as far as possible when that third State or third body has reason to believe that the information supplied is inaccurate or no longer up-to-date.

*Article 5***Entry into force**

These rules shall enter into force on 1 January 1999.

Done at Brussels, 3 November 1998.

For the Council
The President
B. PRAMMER

COUNCIL ACT

of 3 November 1998

laying down rules governing Europol's external relations with third States and non-European Union related bodies

(1999/C 26/04)

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 42(2) thereof,

Agreements

1. Europol may conclude agreements with third States and non-European Union related bodies.

Having regard to the opinion of the Management Board,

2. The Council shall unanimously determine the third States or non-European Union related bodies with which agreements are to be negotiated.

Whereas it is for the Council, acting unanimously, to lay down rules governing Europol's external relations with third States and non-European Union related bodies;

3. The Director of Europol shall, after consulting the Management Board and after authorisation by the Council, enter into negotiations on such agreements. In reaching the decision on the authorisation the Council may impose conditions. Such an agreement can only be concluded after unanimous approval by the Council.

Having regard to the declaration concerning Article 42 of the Europol Convention, made on signing that Convention, that Europol should as a matter of priority establish relations with the competent bodies of those States with which the European Communities and their Member States have established a structural dialogue,

*Article 3***Liaison officers**

HAS ADOPTED THE FOLLOWING RULES:

An agreement is essential for the secondment of liaison officers of Europol to third States and non-European Union related bodies and for the secondment to Europol of liaison officers from third States and non-European Union related bodies. Such an agreement shall stipulate the conditions for secondment and the functions allocated to the liaison officers.

*Article 1***Definitions**

For the purpose of these rules:

Article 4

(a) 'third States' means States that are not Member States of the European Union as referred to in Article 10(4)(4) of the Europol Convention;

Missions by Europol staff and the reception of high-level officials

(b) 'non-European Union related bodies' means the bodies referred to in Article 10(4), (5), (6) and (7), of the Europol Convention;

1. The Director of Europol shall report to the chairman of the Management Board in advance on journeys on official business (hereinafter referred to as 'missions') made by Europol staff to third States or non-European Union related bodies and on visits to Europol of high-level officials from a third State or a non-European Union related bodies.

(c) 'agreement' means an agreement concluded for the purpose of achieving the objectives referred to in Article 2 of the Europol Convention;

(d) 'Europol staff' means the Director, Deputy Directors and the employees of Europol as referred to in Article 30 of the Europol Convention.

2. Where an agreement has been concluded, the Management Board may decide that it is not necessary to give prior notice of missions by Europol staff to the relevant third States or non-European Union related bodies.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

3. Missions by Europol staff to third States and non-European Union related bodies and visits to Europol by high-level officials from third States and non-European Union related bodies with which no agreement has been concluded shall only take place after authorisation by the chairman of the Management Board.

Article 5

Regular meetings

1. The Director of Europol may, with the unanimous approval of the Management Board, establish regular meetings with third States and non-European Union related bodies.

2. Where an agreement provides for regular meetings, the approval of the Management Board is no longer necessary.

Article 6

Provision of information to the Management Board and the Council

The Director of Europol shall regularly report to the Management Board and to the Council on Europol's external relations with third States and non-European Union related bodies. The general report on Europol's activities (Article 28(10) of the Europol Convention) shall cover this matter.

Article 7

Privileges and immunities

An agreement with a third State may provide for any necessary privileges and immunities for Europol, Europol staff and liaison officers seconded by Europol.

Article 8

Exchange of information

1. These rules shall be without prejudice to the rules concerning the transmission of personal data by Europol to third States and third bodies, the rules on the confidentiality of Europol's information and the rules concerning the receipt of information by Europol from third parties.

2. (a) For the purpose of fulfilling the objectives set out in Article 2 of the Europol Convention, Europol may transmit to third States and non-European Union related bodies not linked to the non-personal data subject to the basic protection level as set out in Article 8(1) of the rules on the confidentiality of Europol's information, if:

- an agreement has been concluded for this purpose under the conditions laid down in Article 2,
- exceptionally, when the Director of Europol considers such transmission absolutely necessary to safeguard the essential interests of the Member States or to prevent imminent danger associated with crime.

(b) For the transmission of non-personal data classified Europol 1, 2 or 3, an agreement is necessary. Such an agreement shall take the rules on the confidentiality of Europol's information into account.

Article 9

Entry into force

These rules shall enter into force on the day following their adoption by the Council.

Done at Brussels, 3 November 1998.

For the Council
The President
B. PRAMMER

COUNCIL DECISION

of 3 December 1998

supplementing the definition of the form of crime 'traffic in human beings' in the Annex to the
Europol Convention

(1999/C 26/05)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to Article 43(3) of the Convention based on Article K.3 of the Treaty on
European Union on the establishment of a European Police Office (Europol Convention)⁽¹⁾,Recalling the agreement within the Council on 4 December 1997 to supplement the definition
of the form of crime 'traffic in human beings' in the Annex to the Europol Convention,

After discussion of the matter by the Europol Management Board,

HAS DECIDED AS FOLLOWS:

*Article 1*The definition of the form of crime 'traffic in human beings' in the Annex to the Europol
Convention is hereby supplemented so as to read as follows:

- ‘— “traffic in human beings” means subjection of a person to the real and illegal sway of other
persons by using violence or menaces or by abuse of authority or intrigue, especially with a
view to the exploitation of prostitution, forms of sexual exploitation and assault of minors
or trade in abandoned children. These forms of exploitation also include the production,
sale or distribution of child-pornography material;’.

Article 2

This Decision shall enter into force on 1 January 1999.

Done at Brussels, 3 December 1998.

For the Council
The President
K. SCHLÖGL

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

COUNCIL DECISION

of 3 December 1998

instructing Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property

(1999/C 26/06)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 2(2) thereof,

Having regard to the agreement reached in the Council on 19 March and 28 to 29 May 1998 on the principle to instruct Europol to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property when Europol takes up its activities,

Having regard to the work of the Counter-Terrorism Preparatory Group and after consideration by the Europol Management Board and being conscious of the need for a separate Decision on the budgetary and staffing implications for Europol,

HAS DECIDED AS FOLLOWS:

Article 1

As from the date of taking up its activities in accordance with Article 45(4) of the Europol Convention, Europol shall have the authority to deal with crimes committed or likely to be committed in the course of terrorist activities against life, limb, personal freedom or property.

Article 2

This Decision shall enter into force on 1 January 1999.

Done at Brussels, 3 December 1998.

For the Council
The President
K. SCHLÖGL

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

COUNCIL ACT**of 3 December 1998****laying down the staff regulations applicable to Europol employees**

(1999/C 26/07)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 30(3) thereof,

Having regard to the opinion of the Management Board,

Whereas it is for the Council, acting unanimously, to lay down detailed arrangements applicable to Europol employees,

HAS ADOPTED THE FOLLOWING STAFF REGULATIONS:

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

**Staff Regulations applicable to
Europol employees**

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TITLE I

GENERAL PROVISIONS

Article 1

1. These Staff Regulations shall apply to all employees engaged under contract by Europol. Such employees shall be:

- Europol staff, consisting of staff engaged only from the competent authorities as mentioned in Article 2(4) of the Europol Convention, and staff who may be engaged either from these authorities or from outside these authorities;
- local staff, where they are explicitly mentioned in these Staff Regulations.

2. The Staff Regulations shall also apply to the Director and Deputy Directors of Europol, without prejudice to the Europol Convention.

Article 2

1. For the purposes of these Staff Regulations, 'Europol staff' means staff engaged to fill a post which is included in the list of posts in Appendix 1, with the exception of posts marked as local staff.

For each of these posts it shall be established which can be filled only by staff engaged from the competent authorities as mentioned in Article 2(4) of the Europol Convention, and which posts can be filled by other staff as well.

Staff recruited to a post which can be filled only by staff engaged from the competent authorities, may be offered a temporary contract for that post only, in accordance with Article 6.

2. Posts shall be evaluated by Europol, subject to the approval of the Management Board of Europol, according to the nature and importance of the tasks connected with them as well as taking into consideration the required level of skills and relevant experience.

Each year, the number and rank of posts will be laid down in an Appendix to the budget.

Article 3

For the purposes of these Staff Regulations, 'local staff' means staff engaged according to local law for manual or service duties, assigned to a post marked as such in the list of posts in Appendix 1.

Article 4

Within Europol, a Staff Committee shall be set up to perform the functions assigned to it by these Staff Regulations. The composition and procedure of the Staff Committee shall be as established in Appendix 7.

All officials shall be entitled to vote in elections and stand for election to the Staff Committee.

Article 5

Officials shall be entitled to exercise the right of association; they may in particular be members of staff associations.

TITLE II

EUROPOL STAFF

CHAPTER 1

GENERAL PROVISIONS

Article 6

All Europol staff shall initially be engaged for a fixed period of between one and four years. First contracts may be renewed as follows:

- for a maximum period of two years, for staff assigned to a post which can be filled only by staff engaged

from the competent authorities referred to in Article 2(4) of the Europol Convention,

- for a maximum period of two years, for staff subject to national provisions for secondment, special leave or temporary outplacement, assigned to a post not restricted to staff engaged from the competent authorities referred to in Article 2(4) of the Europol Convention,

- for a maximum period of four years in all other cases.

Only staff mentioned in the last two categories above may be engaged for an indefinite period after serving two contracts for a fixed period satisfactorily.

The Management Board of Europol shall give its consent on a yearly basis insofar as the Director of Europol intends to grant contracts of indefinite duration. The Management Board may fix ceilings for the total number of such contracts to be granted.

Article 7

1. The Director shall, acting solely in the interests of the service, without regard to nationality, and without prejudice to Article 24(1), assign each official by appointment to a post. An official may apply for a transfer within Europol.

2. An official may be called upon to occupy temporarily a post in a higher salary scale than his substantive salary scale. From the beginning of the fourth month of such temporary posting, he shall receive a differential allowance equal to the difference between the remuneration carried by his substantive scale and incremental point, and the remuneration he would receive in respect of the incremental point at which he would be classified in the salary scale of his temporary posting.

Article 8

1. The salary scale and incremental point at which Europol staff are engaged shall be stated in their contract.

2. Assignment of Europol staff to a post carrying a higher salary scale than that at which they were engaged shall be recorded in an agreement supplementary to their contract.

CHAPTER 2

RIGHTS AND OBLIGATIONS

Article 9

An official shall carry out his duties for Europol and conduct himself solely with the interests of Europol in mind; he shall neither seek nor take instructions from any government, authority, organisation or person outside Europol, in accordance with Article 30(1) of the Europol Convention.

An official shall not, without the permission of the Director, accept from any government or from any other

source outside Europol any honour, decoration, favour, gift or payment of any kind whatever, except for services rendered either before his appointment or during special leave for military or other national service and in respect of such service.

Article 10

An official shall be bound by the provisions on discretion and confidentiality as established by Articles 31 and 32 of the Europol Convention, and any regulations based thereon.

An official wishing to engage in an outside activity, whether gainful or not, or to carry out any assignment outside Europol shall obtain permission from the Director. Permission shall be refused if the activity or assignment is such as to impair the official's independence or to be detrimental to the work of Europol.

Article 11

An official of Europol shall conduct his private life so as not to interfere with his official duties or bring discredit upon Europol.

Article 12

Any official who in the performance of his duties is called upon to decide on a matter in the handling or outcome of which he has a personal interest shall inform the Director.

Article 13

An official who is a candidate for elective public office shall apply for leave on personal grounds for a period not exceeding three months.

The Director shall consider the case of any official elected to such office. The Director shall, having regard to the importance of the office and the duties it entails for the holder, decide whether the official should continue in active employment or should apply for leave on personal grounds. In the latter case, the duration of the leave shall be equal to the term for which the official has been elected. If the person concerned holds a contract for a fixed period, the duration of leave shall be limited to the remainder of the term of the contract.

Article 14

An official shall not, whether alone or together with others, publish or cause to be published without the permission of the Director, any matter dealing with the work of Europol. Permission shall be refused only where the proposed publication is liable to prejudice the interests of Europol.

Article 15

All rights in any writings or other work done by any official in the performance of his duties shall be the property of Europol.

Article 16

An official shall reside either in the place where he is employed or at a distance therefrom no greater than is compatible with the proper performance of his duties.

Article 17

An official, whatever his rank, shall assist and tender advice to his superiors; he shall be responsible for the performance of the duties assigned to him.

An official in charge of any branch of the service shall be responsible to his superiors in respect of the authority conferred on him and for the carrying out of instructions given by him. The responsibility of his subordinates shall in no way release him from his own responsibility.

An official who receives instructions which he considers to be irregular or likely to give rise to serious difficulties shall inform his immediate superior thereof, if necessary in writing. If the official then receives written confirmation of his instructions from his superior, he shall carry them out unless they constitute a breach of criminal law or of the relevant safety standards. He may also submit a request for decision on the issue to the Director, in accordance with Article 22.

An official who is charged with a criminal offence shall immediately inform the Director.

Article 18

An official may be required to make good, in whole or in part, any damage suffered by Europol as a result of serious misconduct on his part in the course of or in connection with the performance of his duties.

A reasoned decision shall be given by the Director in accordance with the procedure referred to in Article 96.

The Court of Justice of the European Communities shall have unlimited jurisdiction in disputes arising under this provision.

Article 19

The privileges and immunities enjoyed by officials shall be accorded solely in the interests of Europol. Subject to the Headquarters Agreement and the Protocol on Privileges and Immunities, officials shall not be exempt from fulfilling their private obligations or from complying with the laws and police regulations in force.

When privileges and immunities are in dispute, the official concerned shall immediately inform the Director.

Article 20

Europol shall assist any official, in particular in proceedings against any person perpetrating threats, insulting or defamatory acts or utterances, or any attack on person or property to which he or a member of his family is subjected by reason of his position or duties.

Europol shall compensate the official for damage suffered in such cases, insofar as the official did not either intentionally or through grave negligence cause the damage and has been unable to obtain compensation from the person who did cause it.

Article 21

Europol shall promote such further training and instruction for officials as is compatible with the proper functioning of the service and is in accordance with its own interests.

Such training and instruction shall be taken into account for purposes of promotion.

Article 22

Officials may submit requests to the Director of Europol.

Any decision relating to a specific individual which is taken under these Staff Regulations shall at once be communicated in writing to the official concerned. Any decision adversely affecting an official shall state the grounds on which it is based.

Article 23

The personal file of an official shall contain:

- (a) all documents concerning his status and all reports relating to his ability, efficiency and conduct;
- (b) any comments by the official on such documents.

Documents shall be registered, numbered and filed in serial order; the documents referred to in (a) may not be used or cited by Europol against an official unless they were communicated to him before they were filed.

A document shall be deemed to have been communicated to an official where the official's signature has been obtained, or failing that, the document has been sent to him by registered letter.

There shall be only one personal file for each official. An official shall have the right, even after leaving the service, to acquaint himself with all the documents in his file.

The personal file shall be confidential and may be consulted only in the offices of the administration. It shall, however, be forwarded to the Court of Justice of the European Communities if an action concerning the official is brought before the Court.

Acting on a proposal of the Director, submitted after consultation with the Staff Committee, the Management Board shall lay down detailed rules on the management, content and access to the personal file, taking account of the principles established in the Council of Europe Convention of 28 January 1981.

CHAPTER 3

CONDITIONS OF ENGAGEMENT

Article 24

1. Engagement of Europol staff shall be directed to securing for the institution the services of persons of the highest standard of ability, efficiency and integrity. In selecting Europol staff, in addition to having regard to personal suitability and professional qualifications, account shall be taken of the need to ensure the adequate representation of nationals of all Member States and of the official languages of the European Union. Europol is committed to a policy of equal opportunity.

2. A member of the Europol staff may be engaged only in accordance with Article 2(1), and on condition that:

- (a) he is a national of one of the Member States of the European Union, and enjoys his full rights as a citizen;
- (b) he has fulfilled any obligations imposed on him by the laws concerning military service;
- (c) he produces the appropriate character references as to his suitability for the performance of his duties;
- (d) he is physically fit to perform his duties, and
- (e) he produces evidence of a thorough knowledge of one of the official languages of the European Union and of a satisfactory knowledge of another such language to the extent necessary for the performance of his duties.

3. A candidate for a Europol post may, before he can be appointed to the post, be subject to a prior national approval procedure to ensure that his posting will be in conformity with national provisions for secondment, special leave or temporary outplacement. The Member State concerned shall define the details of this procedure.

4. The selection procedures to be followed in engaging Europol staff shall be as laid down in Appendix 2 to these Staff Regulations.

Article 25

Before being engaged and on renewal of his contract, a member of the Europol staff shall be medically examined by a medical officer appointed by Europol in order that Europol may be satisfied that he fulfils or continues to fulfil the requirements of Article 24(2)(d).

Where a negative medical opinion is given as a result of the medical examination provided for in the first paragraph, the candidate may, within 20 days of being notified of this opinion by Europol, request that his case be submitted for a final decision to the Invalidity Committee. The medical officer responsible for the initial negative opinion shall be heard by the Invalidity Committee. The candidate may refer the opinion of a doctor of his choice to the Invalidity Committee.

Article 26

A member of the Europol staff may be required to serve a probationary period not exceeding six months. A probationary period may not be stipulated when a contract is renewed in accordance with Article 6.

Where during his probationary period a member of the Europol staff is prevented, by sickness or accident, from performing his duties for one month or more, the Director may extend his probationary period by the corresponding length of time.

Not less than one month before the expiry of the probationary period, a report shall be made on the ability of the member of the Europol staff to perform the duties pertaining to his post and also on his conduct and efficiency in the service. This report shall be communicated to the person concerned, who shall have the right to submit his comments in writing. A member of the Europol staff whose performance has not proved adequate to justify retention in his post shall be dismissed.

A report on the probationary member of the Europol staff may be made at any time during the probationary period if his performance is obviously proving inadequate. The report shall be communicated to the person concerned, who shall have the right to submit his comments in writing. On the basis of the report, the Director may decide to dismiss the member of the Europol staff before the end of the probationary period by giving him one month's notice; the period of service may not, however, exceed the normal probationary period.

A probationary member of the Europol staff who is dismissed shall be entitled to compensation equal to one third of his basic salary per month of probation completed.

Article 27

Europol staff shall be engaged at the first incremental point of the salary scale determined for the post. However, the Director may, taking account of the conditions on the labour market in respect of the post concerned, or the training and special experience of the successful candidate for the post, decide to place the successful candidate up to the fifth incremental point of the appropriate salary scale. In such case, the application of Article 29 may not lead to a salary higher than the fifth incremental point during the first contract.

Where a contract held by an official is renewed, and the official is appointed in the same salary scale he held under his previous contract, he shall at least retain the incremental point acquired under his first contract. If the official is appointed to a higher salary scale, he shall be put on the next highest incremental point in that salary scale.

Article 28

The ability, efficiency and conduct in the service of each official, with the exception of the Director and Deputy Directors, shall be the subject of a periodical report made at least once every year.

The report shall be communicated to the official. He shall be entitled to make any comments thereon which he considers relevant.

Article 29

The Director may award a maximum of two incremental points every two years, on the basis of an assessment, taking into account the performance of the official concerned. Teaching duties under the further training and instruction scheme provided for in Article 21, shall be taken into account of this assessment. Further details on the assessment procedure shall be laid down by the Management Board, acting on a proposal from the Director, submitted after consulting the Staff Committee.

Where an increment is not awarded for reasons of inefficiency of the official concerned, the official may apply for a review of this decision six months after it was taken.

CHAPTER 4

WORKING CONDITIONS

Article 30

Officials in active employment shall at all times be at the disposal of Europol.

However, the normal working week shall be 40 hours, the hours of the working day to be determined by the Director. Within the same limits the Director may, after consulting the Staff Committee, determine the hours and pattern to be worked by certain groups of officials engaged on particular duties.

An official may, moreover, be required because of the exigencies of the service or safety rules to remain on standby duty at his place of work or at home outside normal working hours. Europol shall lay down detailed rules for the application of this paragraph after consulting the Staff Committee.

Article 31

The Director may, on receipt of an application setting out the reasons therefor, authorise an official to work part-time. Such authorisation shall be refused if he considers that authorisation for part-time work would be detrimental to the interests of Europol.

An official authorised to work part-time shall in each month, in the manner provided for by the Director, work

the proportion of the normal working time agreed upon.

Article 32

The authorisation referred to in Article 31 shall be granted on application by the official for a maximum of one year. The authorisation may, however, be renewed on the same conditions. An application for renewal shall be made by the official at least one month before the expiry of the period for which the authorisation was granted.

If the reasons for which the authorisation was granted no longer apply, the Director may withdraw the authorisation before expiry of the period for which it was granted, giving one month's notice.

The Director may likewise withdraw the authorisation if the official concerned so requests.

The official shall be entitled, during the period for which he is authorised to work part-time, to the corresponding percentage of his remuneration. He shall, however, continue to receive the full dependent-child allowance and the full education allowance. Contributions to the sickness insurance scheme and the pension scheme shall be calculated by reference to the total basic salary.

The annual leave of an official who is authorised to work part-time shall, for as long as he is so authorised, be reduced *pro rata*. Portions of days to be deducted shall be disregarded.

Article 33

An official may not be required to work overtime except in cases of urgency or exceptional pressure of work; night work and all work on Sundays or public holidays may be authorised only in accordance with the procedure laid down by the Director. The total overtime which an official may be asked to work shall not exceed 150 hours in any six months. This figure may be derogated from by decision of the Director, after consulting the Staff Committee, depending on whether compensation is given by way of remuneration or compensatory leave.

As provided for in Appendix 3, overtime worked by officials shall entitle them either to compensatory leave or to remuneration where the requirements of the service do

not allow compensatory leave during the two months following that in which the overtime was worked.

Article 34

An official who is regularly expected to work at night, on Saturdays, Sundays or public holidays, shall be entitled to special allowances when doing shift-work which is required by Europol because of the exigencies of the service or safety rules and which is regarded by it as a regular and permanent feature.

Acting on a proposal from the Director submitted after consulting the Staff Committee, the Management Board shall determine the categories of officials entitled to such allowances, and the rates and conditions thereof.

The normal working hours of an official on shiftwork must not exceed the annual total of normal working hours.

Article 35

An official shall be entitled to special compensation when required to remain on standby duty outside normal working hours in accordance with a decision taken by the Director because of the exigencies of the service or safety rules.

Acting on a proposal from the Director submitted after consulting the Staff Committee, the Management Board shall determine the categories of officials entitled to such compensation, and the rates and conditions thereof.

Article 36

Officials shall be entitled to annual leave of 30 working days per calendar year.

Apart from this annual leave an official may, exceptionally on application, be granted special leave. The rules relating to such leave are laid down in Appendix 4.

Article 37

Pregnant women shall, in addition to the leave provided for in Article 36, be entitled on production of a medical certificate to maternity leave not starting earlier than six weeks before the expected date of confinement shown in the certificate and ending 10 weeks after the date of confinement; however, such leave shall in no case be for less than 16 weeks regardless of the date of commencement.

The maternity leave must include compulsory maternity leave of at least two weeks before and after the date of confinement.

Such pregnant women shall be entitled to take time off, without loss of pay, in order to attend pre-natal examinations, if such examinations have to take place during working hours.

Article 38

1. An official who provides evidence of incapacity to perform his duties because of sickness or accident shall automatically be entitled to sick leave. The sick leave shall not exceed three months or the time worked by the official, whichever is the longer. The leave shall not extend beyond the term of his contract.

The official concerned shall notify Europol of his incapacity as soon as possible and at the same time state his current address. He may then be required to undergo a medical examination arranged by Europol.

The Director may refer to the Invalidity Committee the case of any official whose sick leave totals more than 12 months in any period of three years.

2. An official may be required to take leave after examination by a medical officer appointed by Europol if his state of health so requires or if a member of his household is suffering from a contagious disease.

3. On expiry of the time limits mentioned in paragraph 1, an official whose contract is not terminated, despite being unable to resume his duties, shall be placed on unpaid leave.

However, where an official contracts an occupational disease or sustains an accident in the performance of his duties, he shall continue to receive his full remuneration throughout the period during which he is incapable of working until such time as he is awarded an invalidity pension under Article 65.

Article 39

Except in case of sickness or accident, an official may not be absent without prior permission from his immediate superior. Notwithstanding any disciplinary measures that may apply, any unauthorised absence which is duly established shall be deducted from the annual leave of the official concerned.

Article 40

A list of public holidays shall be established by the Management Board, acting on a proposal from the Director submitted after consulting the Staff Committee.

Article 41

In exceptional circumstances a member of the Europol staff may at his own request be granted unpaid leave on compelling personal grounds. The Director shall determine the length of such leave, which shall not exceed one quarter of the length of time already worked by the official and in any event not more than:

- three months if the official's seniority is less than four years,
- six months in all other cases.

While a member of the Europol staff is on unpaid leave his membership of the social security scheme provided for in Article 56 shall be suspended.

However, a member of the Europol staff who provides evidence that he cannot be covered by any other public scheme of insurance against the risks referred to in Article 56 may, not later than one month following that in which unpaid leave begins, apply to continue to be covered in accordance with that Article, provided that he bears half the cost of the contributions required to cover the risks referred to in Article 56 for the duration of his leave; the contribution shall be calculated by reference to his last basic salary.

Moreover, a member of the Europol staff who proves that he cannot acquire pension rights under another pension scheme may apply to continue to acquire further pension rights throughout the period of unpaid leave, provided that he bears the cost of a contribution equal to three times the rate laid down in Article 78; the contributions shall be calculated by reference to the basic salary for his scale and incremental point.

Article 42

A member of the Europol staff who is called up for military service, alternative service or reserve training or who is recalled to serve in the armed forces shall be assigned leave for national service; for Europol staff engaged for a fixed period such leave may in no circumstances exceed the duration of the contract.

A member of the Europol staff who is called up for military service or alternative service shall cease to receive his remuneration. He shall retain his right to retirement

pension if, after completing his military service or alternative service, he pays off his pension contributions retroactively.

A member of the Europol staff who is called up for reserve training or who is recalled to service in the armed forces shall, during the period of training or recall, continue to receive his remuneration subject to deduction of an amount equal to his service pay.

CHAPTER 5

REMUNERATION AND EXPENSES

Article 43

The remuneration of Europol staff shall comprise basic salary, family allowances and, if appropriate, other allowances. It shall be expressed and paid in the currency of the country where the official is stationed.

Article 44

The Management Board shall each year review the remuneration of the officials of Europol. During this review the Management Board shall consider whether, as a consequence of changes in the cost of living in The Hague, the remuneration should be adjusted. Particular account should be taken of any changes in salaries in the public service in the Member States and the needs of recruitment to Europol.

On the basis of the yearly review of the remuneration, the basic salaries and allowances may be adjusted. This decision shall be taken by the Council unanimously in accordance with the procedure of Title VI of the Treaty on European Union, based on the proposal of the Management Board.

Article 45

Basic monthly salaries are determined in Dutch guilders for each salary scale and incremental point as provided for in the following table:

Scales	Points										
	1	2	3	4	5	6	7	8	9	10	11
1	24 500										
2	22 000										
3	15 100	15 490	15 880	16 300	16 720	17 160	17 598	18 060	18 525	19 015	19 500
4	13 150	13 500	13 845	14 210	14 575	14 960	15 340	15 745	16 150	16 575	17 000
5	10 835	11 120	11 400	11 700	12 000	12 320	12 635	12 970	13 300	13 650	14 000
6	9 285	9 530	9 775	10 035	10 290	10 560	10 830	11 115	11 400	11 700	12 000
7	7 740	7 945	8 145	8 360	8 575	8 800	9 025	9 265	9 500	9 750	10 000
8	6 580	6 755	6 925	7 110	7 290	7 480	7 670	7 875	8 075	8 290	8 500
9	5 800	5 955	6 110	6 270	6 430	6 600	6 770	6 950	7 125	7 315	7 500
10	5 030	5 165	5 295	5 435	5 570	5 720	5 870	6 025	6 175	6 340	6 500
11	4 875	5 005	5 130	5 265	5 400	5 545	5 685	5 835	5 985	6 145	6 300
12	3 870	3 975	4 075	4 180	4 285	4 400	4 515	4 635	4 750	4 875	5 000
13	3 325	3 415	3 500	3 595	3 685	3 785	3 880	3 985	4 085	4 195	4 300

Article 46

1. Family allowances shall comprise:

- (a) household allowance;
- (b) dependent child allowance;
- (c) education allowance.

2. Officials in receipt of family allowances specified in this Article shall declare allowances of like nature paid

from other sources; such latter allowances shall be deducted from those paid under Articles 1, 2 and 3 of Appendix 5.

3. The dependent child allowance may be doubled by special reasoned decision of the Director based on medical documents establishing that the child concerned is suffering from a mental or physical handicap which involves the official in heavy expenditure.

4. Where, by virtue of Articles 1, 2 and 3 of Appendix 5, such family allowances are paid to a person other than the official, paragraphs 2 and 3 of this Article shall apply to such a person.

Article 47

The expatriation allowance shall be a fixed allowance to which the official is entitled for the duration of his fixed term contract(s), established per category of posts as laid down in Appendix 5. After this period, this allowance shall be reduced by 10% of the initial allowance annually.

Article 48

In the event of an official's death, the surviving spouse or dependent children shall receive the deceased's full remuneration until the end of the third month after the month in which the death occurred.

The period mentioned above shall be extended to 12 months in the case where the official died as a consequence of one of the acts mentioned under the second subparagraph of Article 65(1).

In the event of the death of a person entitled to a pension, the above provisions shall apply in respect of the deceased's pension.

Article 49

Family allowances, expatriation allowance, and other fixed allowances, shall be as established in Appendix 5.

Article 50

Subject to Articles 51 to 54 an official shall be entitled, in accordance with Appendix 5, to reimbursement of reasonable expenses incurred by him on taking up appointment, transfer or leaving the service, and also to reimbursement of reasonable expenses incurred in the course of or in connection with the performance of his duties.

Article 51

A member of the Europol staff shall, as provided for in Appendix 5, be entitled to reimbursement of his removal expenses. This reimbursement shall also be granted when the contract is terminated during the probationary period, except where this termination was due to conduct deemed improper for a member of the Europol staff.

Article 52

A rent allowance shall be payable as provided for in Appendix 5.

Article 53

Reasonable expenses incurred by an official on taking up an appointment with Europol shall be reimbursed in accordance with the terms laid down in Appendix 5.

Article 54

Payment of travel expenses from place of employment to place of origin, shall be as provided for in Appendix 5.

Article 55

1. Payment of remuneration to officials shall be made on the 15th day of each month for the month then current. The amount of remuneration shall be rounded up to the nearest whole monetary unit.

2. Where remuneration is not due in respect of a complete month, the amount shall be divided into thirtieths, and

- (a) where the actual number of days payable is 15 or less, the number of thirtieths due shall equal the actual number of days payable;
- (b) where the actual number of days payable is more than 15, the number of thirtieths due shall equal the difference between the actual number of days not payable and 30.

3. Where entitlement to family allowances and expatriation allowances commences after the date of entering the service, the official shall receive these from the first day of the month in which such entitlement commences. On cessation of such entitlements, the official shall receive the sum due up to the last day of the month in which entitlement ceases.

CHAPTER 6

SOCIAL SECURITY BENEFITS

Section A

Sickness and accident insurance, other benefits

Article 56

1. An official, his spouse, where such spouse is not eligible for benefits of the same nature and of the same level by virtue of any other legal provision or regulations, his children and other dependants within the meaning of Article 2 of Appendix 5 are insured against sickness up to 80% of the expenditure incurred subject to rules drawn up by the Management Board, acting on a proposal

from the Director, submitted after consulting the Staff committee. This rate shall be increased to 85 % for the following services: consultations and visits, surgical operations, hospitalisation, pharmaceutical products, radiology, analyses, laboratory tests and prostheses on medical prescription with the exception of dental prostheses. It shall be increased to 100 % in cases of tuberculosis, poliomyelitis, cancer, mental illness and other illnesses recognised by the Director as of comparable seriousness, and for early detection screening and in cases of confinement. However, reimbursement at 100 % shall not apply in the case of occupational disease or accident having given rise to the application of Article 57.

One third of the contribution required to meet such insurance cover shall be charged to the official but so that the amount charged to him shall not exceed 2 % of his basic salary.

2. An official whose service terminates and who provides evidence that he cannot be covered by any other public scheme of sickness insurance may, not later than one month following that in which his service terminates apply to continue, for a maximum of six months after termination of service, to be insured against sickness as provided for in paragraph 1. The contribution referred to in the previous paragraph shall be calculated by reference to the last basic salary received by the official, half the contribution being borne by him.

By decision of the Director taken after consulting a medical officer appointed by Europol, the period of one month for making application and the six months' limit specified in the preceding subparagraph shall not apply where the person concerned is suffering from a serious or protracted illness which he contracted before leaving the service and of which he notified the institution before the end of the six months' period specified in the preceding subparagraph, provided that the person concerned undergoes a medical examination arranged by Europol.

3. Where the ex-spouse of an official, a child who ceases to be an official's dependant or a person who ceases to be treated as a dependent child within the meaning of Article 2 of Appendix 5 can provide evidence that they cannot be covered by any other public scheme of sickness insurance, they may continue for a maximum of one year to be insured against sickness as provided for in paragraph 1, in their capacity as insured persons covered under that official's insurance; this cover shall not give rise to the levy of a contribution. This one-year period shall commence on the date of the decree absolute of divorce or of the loss of status of dependent child or of person treated as a dependent child.

4. An official who has remained in the service of Europol until the age of 62 years or who is in receipt of an invalidity pension shall be entitled to the benefits provided for in paragraph 1 after he has left the service. The amount of contribution shall be calculated by reference to the amount of pension.

Those benefits shall also apply to the person entitled to survivor's pension following the death of an official who was in active employment or who remained in the service of Europol until the age of 62 years, or the death of a person entitled to an invalidity pension. The amount of contribution shall be calculated by reference to the amount of his pension.

5. The following shall likewise be entitled to the benefits provided for in paragraph 1, provided that they cannot obtain cover under any other public scheme of sickness insurance:

- (a) former officials entitled to retirement pensions who left the service of Europol before the age of 62 years;
- (b) persons entitled to survivor's pension as a result of the death of a former official who left the service of Europol before the age of 62 years.

The contribution referred to in paragraph 1 shall be calculated by reference to the pension of a former official, half the contribution being borne by the person entitled. However, a person entitled to orphan's pension shall not be entitled to the benefits provided for in paragraph 1, except on request. The contribution shall be calculated by reference to the orphan's pension.

6. Where the total expenditure not reimbursed for any period of 12 months exceeds half the official's basic monthly salary or pension, special reimbursement shall be allowed by the Director, account being taken of the family circumstances of the person concerned, in the manner provided for in the rules referred to in paragraph 1.

7. Persons entitled to the foregoing benefits shall declare the amount of any reimbursements paid or which they can claim under any other sickness insurance scheme provided for by law or regulation for themselves or for persons covered by their insurance.

Where the total which they would receive by way of reimbursement exceeds the sum of the reimbursements provided for in paragraph 1, the difference shall be deducted from the amount to be reimbursed pursuant to paragraph 1, with the exception of reimbursements obtained under a private supplementary sickness insurance scheme covering that part of the expenditure which is not reimbursable by the sickness insurance scheme of Europol.

Article 57

1. An official is insured, from the date of his entering the service, against the risk of occupational disease and of accident subject to rules drawn up by the Management Board after consulting the Staff Committee. He shall contribute to the cost of insuring against

non-occupational risks up to 0,1% of his basic salary. Such rules shall specify which risks are not covered.

2. The benefits payable shall be as follows:

(a) in the event of death:

Payment to the persons listed below of a lump sum equal to five times the deceased's annual basic salary calculated by reference to the monthly amounts of salary received during the 12 months before the accident:

- to the deceased official's spouse and children in accordance with the law of succession governing the official's estate; the amount payable to the spouse shall not, however, be less than 25 % of the lump sum,
- where there are no persons of the category above, to the other descendants in accordance with the law of succession governing the official's estate,
- where there are no persons of either of the two categories above, to the relatives in the ascending line in accordance with the law of succession governing the official's estate,
- where there are no persons of any of the three categories above, to Europol.

(b) in the event of total permanent invalidity:

Payment to the official of a lump sum equal to eight times his annual basic salary calculated on the basis of the monthly amounts of salary received during the 12 months before the accident.

(c) in the event of partial permanent invalidity:

Payment to the official of a proportion of the sum provided for in (b), calculated by reference to the scale laid down in the rules referred to in paragraph 1.

The benefits listed above may be paid in addition to the benefits provided for under the pension scheme.

3. The following shall also be covered in manner provided for in the rules referred to in paragraph 1: medical, pharmaceutical, hospital, surgical, prosthesis, radiography, massage, orthopaedic, clinical and transport expenses and any other similar expenditure incurred as a result of the accident or occupational disease.

Reimbursement shall, however, only be made where the amount paid to the official under Article 56 does not fully cover the expenditure incurred.

Article 58

Articles 56 and 57 shall apply during the period of employment, during sick leave and during the periods of

unpaid leave referred to in Articles 38 and 41 in accordance with conditions laid down therein.

Article 56 shall apply to Europol staff in receipt of invalidity pension, to recipients of a survivor's pension and to staff who are in receipt of a retirement pension.

If, however, the medical examination provided for in Article 25 shows the official to be suffering from sickness or invalidity, the Director may decide that expenses arising from such sickness or invalidity are to be excluded from the reimbursement of expenditure provided for in Article 56.

Article 59

1. A former member of the Europol staff who is unemployed when his service with Europol has been terminated:

- who is not in receipt of a retirement or invalidity pension from Europol,
- whose service is not terminated by resignation, by cancellation of the contract for disciplinary reasons, or during the period of probation,
- who has completed a minimum of six months' service,
- and who is resident in a Member State of the European Union,

shall be eligible for a monthly unemployment allowance under the conditions laid down below.

Where he is entitled to unemployment benefits under a national scheme, he shall be obliged to declare this to Europol. In such cases, the amount of those benefits will be deducted from the allowance paid under paragraph 3.

2. To be eligible for this unemployment allowance, a former member of the Europol staff shall:

- (a) be registered, at his own request, as seeking employment with the employment authorities of the Member State in which he establishes his residence;
- (b) fulfil the obligations laid down by the law of that Member State for persons in receipt of unemployment benefits under that law;
- (c) forward every month to Europol a certificate issued by the competent national employment authority stating whether or not he has fulfilled the obligations and conditions referred to in (a) and (b).

The allowance may be granted or maintained by Europol, even where the national obligations referred to under (b) have not been fulfilled, in cases of illness, accident, maternity, invalidity or a situation recognised as being similar or where the competent national authority has given a dispensation from those obligations.

The Management Board shall lay down such provisions as it deems necessary for applying this Article.

3. The unemployment allowance shall be fixed with reference to the basic salary reached by the former member of the Europol staff at the time of the termination of his service. This allowance shall be fixed at:

- 60 % of the basic salary for an initial period of 12 months,
- 45 % of the basic salary from the 13th until the 18th month,
- 30 % of the basic salary from the 19th until the 24th month.

The amounts thus calculated shall be no less than NLG 1 650 and no more than NLG 3 300.

The minimum and maximum amounts referred to above may be examined annually by the Management Board.

4. The unemployment allowance shall be paid to the former member of the Europol staff for a maximum of 24 months from the date of termination of service. If, however, during that period the former member of the Europol staff ceases to fulfil the conditions laid down in paragraphs 1 and 2, payment of the unemployment allowance shall be suspended. Payment shall be resumed if before the expiry of that period the former member of the Europol staff again fulfils the said conditions and has not acquired the right to national unemployment benefit.

5. A former member of the Europol staff who is eligible for the unemployment allowance shall be entitled to the family allowances provided for in Article 46. The household allowance shall be calculated on the basis of the unemployment allowance under the conditions laid down in Article 1 of Appendix 5.

The person concerned shall be obliged to declare any allowances of the same kind paid from other sources to himself or to his spouse; such allowances shall be deducted from those to be paid on the basis of this Article.

A former member of the Europol staff who is eligible for the unemployment allowance shall be entitled, as provided for in Article 56, to insurance cover against sickness without having to make any contribution.

6. A member of the Europol staff shall contribute a third of the financing of the unemployment insurance

scheme. That contribution shall be fixed at 0,4 % of the basic salary of the person concerned. The contribution shall be deducted monthly from the salary of the person concerned and paid, together with the remaining two thirds to be borne by Europol, into a Special Unemployment Fund.

Europol shall pay its contributions to this Fund each month, no later than eight days after the payment of remuneration.

7. The unemployment allowances paid to a former member of the Europol staff who is unemployed shall be subject to the same conditions and procedure for applying tax as the remuneration of Europol officials is.

8. The national departments with responsibility for employment and unemployment, acting in accordance with their national legislation, and Europol shall cooperate with each other in an effective manner in order to ensure that this Article is properly applied.

9. The detailed arrangements for applying this Article shall be the subject of rules laid down by the Management Board, acting on a proposal submitted by the Director after consulting the Staff Committee, without prejudice to the provisions of the final subparagraph of paragraph 2.

Article 60

1. On the birth of a child to an official, the person who has actual care of the child shall receive a grant of NLG 440.

The same grant shall be paid to an official who adopts a child who is less than five years of age and is a dependant within the meaning of Article 2 of Appendix 5.

2. This grant shall also be payable in the event of termination of pregnancy after not less than 28 weeks, on the production of a medical certificate to that effect.

3. The recipient of a grant on the birth of a child shall declare any grants of the same nature received from other sources for the same child; such grants shall be deducted from the grant provided for above. Where both parents are officials of Europol, the grant shall be paid once only.

Article 61

In the event of the death of an official, an official's spouse or dependent child, or any other dependent person within the meaning of Article 2 of Appendix 5 who lived as part of the official's household, Europol shall reimburse the costs involved in transporting the body from the official's place of employment to his place of origin.

However, in the event of an official's death during a mission, Europol shall bear the costs involved in transporting the body from the place where death occurs to the official's place of origin.

Article 62

Gifts, loans or advances may be made by the Director to officials, former officials or where an official has died, to those entitled under him, who are in a particularly difficult position as a result of serious or protracted illness or where, as a result of an accident sustained during his employment, the official is incapable of working and proves that such illness or accident is not covered by another social security scheme.

Section B

Insurance against invalidity and death

Article 63

Europol staff are insured in accordance with the following provisions against the risk of death and of invalidity occurring during their employment.

The payments and benefits provided for in this Section shall be suspended if the remuneration which a member of the staff receives in respect of his employment is suspended pursuant to these Staff Regulations.

Article 64

Where the medical examination made before an official is engaged shows that he is suffering from sickness or invalidity, the Director may, insofar as risks arising from such sickness or invalidity are concerned, decide to admit him to guaranteed benefits in respect of invalidity or death only after a period of four years from the date of his entering the service of Europol.

The official may appeal against this decision to the Invalidity Committee, which shall be established in accordance with Appendix 7.

Article 65

1. An official suffering from total invalidity who is obliged for that reason to leave the service of Europol shall be entitled to an invalidity pension, the amount of which shall be determined as follows.

Where the invalidity arises from an accident in the course of or in connection with the performance of his duties,

from an occupational disease, from a public-spirited act or from risking his life to save another human being, the invalidity pension shall be 90% of the final basic salary of the official.

Where the invalidity is due to some other cause, the invalidity pension, calculated by reference to the final basic salary of the official, shall be equal to 2% for each year between the date of his entering the service and the date on which he reaches the age of 62 years; this rate shall be increased by 2% for each year of pensionable service with which he has been credited under Article 9(2) and (3) of Appendix 6, but so that the total shall not exceed 70% of his final basic salary.

The invalidity pension shall not be less than 120% of the minimum subsistence figure defined in Article 5 of Appendix 6.

In the case of invalidity deliberately brought about by the official, the Director may decide that he will receive only the grant provided for in Article 77.

Persons entitled to an invalidity pension shall also be entitled to the family allowances provided for in these Staff Regulations, in accordance with Appendix 6; household allowance shall be determined on the basis of the recipient's pension.

2. Invalidity shall be established by the Invalidity Committee.

3. Entitlement to an invalidity pension shall take effect on the day following that on which the official's engagement with Europol is terminated in accordance with Articles 94 and 95.

4. Europol may at any time require proof that the recipient of an invalidity pension still fulfils the conditions for payment of that pension. Entitlement to pension shall cease if the Invalidity Committee finds that those conditions are no longer fulfilled.

If an official is not re-engaged by the Director, after a finding of the Invalidity Committee that the conditions for payment of the pension are no longer fulfilled, he shall be entitled, at his own option:

— either to the severance grant provided for in Article 77 calculated on the basis of the actual length of service,

— or, where he has reached the age of at least 50, to a retirement pension in accordance with Section C of this Chapter.

The time during which he received invalidity pension shall be included for the purpose of calculating his

retirement pension, without payment by him of arrears of contributions.

5. Where an official is entitled to an invalidity pension under a national scheme, or obtains gainful employment, he shall be obliged to declare this to Europol. In such cases, the amount of those benefits or his salary for this employment after deduction of any taxes thereon, shall be deducted from the invalidity pension paid under this Article.

Article 66

The persons entitled under a deceased official as defined in Chapter 4 of Appendix 6 shall be entitled to the survivor's pension as provided for in Articles 67 to 70.

In the event of the death of a former official in receipt of an invalidity pension or in receipt of a retirement pension or who left the service before reaching the age of 62 years and requested that his retirement pension be deferred until the first day of the calendar month following that during which he reached the age of 62 years, the persons entitled under the deceased official, as defined in Chapter 4 of Appendix 6, shall be entitled to the survivor's pension as provided for in that Appendix.

Where the whereabouts of a member of the Europol staff, or of a former member of Europol staff in receipt of an invalidity or retirement pension, or of a former member of Europol staff who left the service before he reached the age 62 and who has requested that his retirement pension be deferred until the first day of the calendar month following that in which he reaches the age of 62, are unknown for more than one year, the provisions of Chapters 5 and 6 of Appendix 6 shall apply by analogy to his spouse and to persons recognised as his dependants.

Article 67

The right to receive payment of pension shall have effect from the first day of the month following that in which death occurred or, where applicable, on the first day of the month following the period during which the surviving spouse, orphans or dependants receive the deceased's remuneration under Article 48.

Article 68

The widow of an official who died in the active service of Europol shall be entitled to a widow's pension in accordance with Article 15 of Appendix 6. The amount of the widow's pension shall be 60% of the retirement pension which the official would have been paid if he had qualified, irrespective of length of service or of age, for such pensions at the time of his death.

The amount specified above shall be 80% in the case where the official died as a consequence of one of the acts referred to in Article 65(1), second subparagraph.

The amount of the survivor's pension payable shall be neither less than the minimum subsistence figure, nor less than 35% of the last basic salary of the official.

The amount shall not be less than 42% of the final basic salary received by the official where death is due to one of the circumstances set out in the second subparagraph of Article 65(1).

Where persons are entitled to a widow's pension under a national scheme, they shall be obliged to declare this to Europol. In such cases, the amounts of those benefits will be deducted from the widow's pension paid under this Article.

Article 69

Where an official or person entitled to a retirement or invalidity pension dies leaving no spouse entitled to a survivor's pension, the children deemed to be dependent on him shall be entitled to an orphan's pension in accordance with Article 20 of Appendix 6.

The same entitlement shall apply to children who fulfil the foregoing conditions in the event of death or remarriage of a spouse who is entitled to a survivor's pension.

Where an official or person entitled to a retirement or invalidity pension dies but the conditions set out in the first paragraph are not satisfied, the children deemed to be dependent on him shall be entitled to an orphan's pension in accordance with Article 20 of Appendix 6; the pension shall, however, be equal to half the pension calculated in accordance with that Article.

In the event of the death of a former member of the Europol staff who left the service before reaching the age of 62 and requested that his retirement pension be deferred until the first day of the calendar month following that in which he reached the age of 62, children deemed to be dependent on him shall be entitled to an orphan's pension on the same conditions as those set out respectively in the foregoing paragraphs.

Where the spouse, not being an official of Europol, of a member of the Europol staff or of a former member of the Europol staff in receipt of a retirement or invalidity pension dies, children dependent on the surviving spouse within the meaning of Article 2 of Appendix 5 shall be entitled to an orphan's pension fixed in accordance with the first paragraph.

Orphans shall be entitled to the education allowance in accordance with Article 3 of Appendix 5.

Article 70

In the case of divorce or where there is more than one category of survivor who qualifies to claim survivor's pension, such pension shall be apportioned in the manner provided for in Chapter 4 of Appendix 6.

Article 71

1. Notwithstanding any other provisions, notably those concerning the minimum amounts payable to persons entitled to a survivor's pension, the total amount payable by way of survivor's pension plus family allowances less tax and other compulsory deductions to the widow and other entitled persons may not exceed the following:

- (a) in the event of the death of an official in the service of Europol, the amount of remuneration which the official would have received on the same scale and incremental point if he had still been in the service, plus any family allowances received by him in that case and less tax and other compulsory deductions;
- (b) for the period following the date on which the official referred to in (a) above would have reached the age of 62, the amount of the retirement pension to which he would have been entitled thereafter, had he been alive, based on the same scale and incremental point at the time of death, plus any family allowances which he would have received, less tax and other compulsory deductions;
- (c) in the event of the death of a former official entitled to a retirement pension or to an invalidity pension, the amount of the pension to which he would have been entitled, had he been alive, subject to the allowances and deductions referred to in (b);
- (d) in the event of the death of a former official who left the service before reaching the age of 62 and requested that his retirement pension be deferred until the first day of the calendar month following the one in which he reached the age of 62, the amount of retirement pension to which he would have been entitled at the age of 62, had he been alive, subject to the allowances and deductions referred to under (b).

2. For the purposes of paragraph 1, weightings which could affect the various amounts in question shall be disregarded.

3. The maximum amount as defined in paragraph 1(a) to (d) shall be apportioned among the persons entitled to a survivor's pension in proportion to their respective

entitlements, paragraph 1 being disregarded for this purpose.

Section C

Retirement pension and severance grant

Article 72

On leaving the service, an official who has completed at least 10 years' service shall be entitled to a retirement pension. He shall, however, be entitled to such pension irrespective of length of service if he is over 62 years.

The maximum retirement pension shall be 70% of the final basic salary carried by the last post in which the official was employed for at least one year. It shall be payable to an official who has completed 35 years' service reckoned in accordance with Article 3 of Appendix 6. Where the number of years of service is less than 35, the above maximum shall be reduced proportionally.

The amount of the retirement pension must not be less than 4% of the minimum subsistence figure per year of service.

The pensionable age shall be 62 years.

Article 73

The widow of a former official referred to in Articles 16, 17 or 18 of Appendix 6 shall, in the manner provided for in those Articles, be entitled to a survivor's pension.

The amount specified above shall be 80% in the case where the official died as a consequence of one of the acts referred to in Article 65(1), second subparagraph.

The amount of the survivor's pension payable in these cases shall be neither less than the minimum subsistence figure, nor less than 35% of the last basic salary of the former official.

The amount shall not be less than 42% of the final basic salary received by the former official where death is due to one of the circumstances set out in the second subparagraph of Article 65(1).

Article 74

The provisions of Article 68 and 73 shall apply *mutatis mutandis* to the widower of an official or of a former official.

Article 75

A person entitled to a retirement pension payable at the age of 62 years or later, or to an invalidity pension, or to a survivor's pension shall be entitled, under the conditions laid down in Appendix 5 to the family allowances specified in Article 46; the household allowance shall be calculated by reference to the pension of the recipient.

The amount of the dependent child allowance payable to the person entitled to the survivor's pension shall, however, be twice the amount of the allowance provided for in Article 46(1)(b).

Article 76

Where the official is entitled to a retirement pension, his pension rights shall be reduced in proportion to the amounts paid in pursuance of Article 79.

Article 77

An official aged less than 62 years whose service terminates otherwise than by reason of death or invalidity and who is not entitled to a retirement pension and cannot benefit from the provisions of Article 9 of Appendix 6 shall be entitled on leaving the service to the payment of a severance grant calculated in accordance with Article 10 of Appendix 6.

This grant shall be reduced by the amounts paid in pursuance of Article 79.

Section D

Funding of the invalidity and life assurance scheme and of the pension scheme*Article 78*

1. Benefits paid under the social security scheme provided for in sections B and C shall be charged to the Europol pension fund referred to in Article 37 of Appendix 6.
2. Officials shall contribute one third of the costs of financing this social security scheme. The contribution shall be 8,25% of the official's basic salary. It shall be deducted monthly from the salaries of the officials.
3. Salaries shall in all cases be subject to deduction of this contribution of the pension scheme.
4. Contributions properly deducted shall not be refunded. Contributions wrongly deducted shall not confer the right to receive a pension; they shall be

reimbursed without interest at the request of the official or those entitled under him.

Article 79

In accordance with conditions to be laid down by the Management Board, acting on a proposal from the Director, submitted after consulting the Staff Committee, an official may request Europol to effect any payments which he is required to make in order to constitute or maintain pension rights in his country of origin.

Such payments shall not exceed 16,5% of his basic salary and shall be charged to the Europol budget.

Section E

Settlement of claims*Article 80*

Europol shall be responsible for calculating the amount of retirement, invalidity, survivor's or provisional pension. A detailed statement of the calculation shall be communicated to the official or to those entitled under him and to the paying agency, at the same time as the decision awarding the pension.

A retirement or invalidity pension shall not be paid concurrently with the salary payable by Europol nor with the allowance payable under Article 59.

Article 81

The amount of pension may at any time be calculated afresh if there has been an error or omission of any kind.

Pensions shall be liable to modification or withdrawal if the award was contrary to the provisions of these Staff Regulations or of Appendix 6.

Article 82

Where an official or former official in receipt of a retirement or invalidity pension dies and those entitled under him do not apply for their pensions within one year from the date of his death, they shall lose their

entitlement, save where *force majeure* is duly established.

Article 83

A former official or those entitled under him in favour of whom benefits arise under the pension scheme shall furnish such written proof as may be required and inform Europol of any facts liable to affect their entitlement.

Article 84

Where an official has been deprived, in whole or in part, of his pension rights under these Staff Regulations, he shall be entitled to claim reimbursement, in proportion to the amount by which his pension has been reduced, of the pension contributions he has paid.

Section F

Payment of benefits

Article 85

Benefits under this social security scheme shall be paid monthly in arrears. These benefits shall, on behalf of Europol, be provided by the institution designated by Europol; no other institution may, under any descriptions whatsoever, pay out of its own funds benefits provided for under this social security scheme. Article 71 shall apply by analogy.

Beneficiaries may elect to have their benefits paid in the currency either of their country of origin or of their country of residence or in Dutch guilders; their choice shall remain operative for at least two years.

Section G

Subrogation in favour of Europol

Article 86

1. Where the death, accidental injury or sickness of a member of Europol staff is caused by a third party, Europol shall, in respect of the obligations incumbent upon it under the Staff Regulations consequent upon the event causing such death, injury or sickness, stand subrogated to the rights, including rights of action, of the victim or of those entitled under him against the third party.

2. The subrogation provided for by paragraph 1 shall extend, *inter alia*, to the following:

- continued payment or remuneration in accordance with Article 38 to the official during the period when he is temporarily unfit to work,
- payments effected in accordance with Article 48 following the death of an official or of a former official entitled to a pension,
- benefits paid under Articles 56 and 57 and their implementing rules, relating to insurance against sickness and accident,
- payment of the costs involved in transporting the body, as referred to in Article 61,
- supplementary family allowances paid in accordance with Article 46(3) and with Article 2(3) of Appendix 5 in respect of a dependent child suffering from serious illness, infirmity or handicap,
- invalidity pensions paid in the event of an accident or sickness resulting in permanent invalidity preventing the official from performing his duties,
- survivor's pension paid in the event of the death of an official or of a former official or the death of the spouse of an official or of a former official entitled to a pension, where the spouse is not a Europol official,
- orphan's pension paid regardless of age to the child of an official or former official where that child is prevented by serious illness, infirmity or handicap from earning a livelihood after the death of the person on whom he was dependent.

3. However, Europol shall not be subrogated to rights of compensation in respect of purely personal damage such as non-material injury, damages for pain and suffering or compensation for disfigurement and loss of amenity over and above the allowance granted for those headings under Article 57.

4. The provisions of paragraphs 1, 2 and 3 may not be a bar to direct action by Europol.

CHAPTER 7

OVERPAYMENTS AND UNDERPAYMENTS

Article 87

Any sum overpaid under these Staff Regulations shall be recovered from the individual concerned, for sums overpaid in the five years preceding the discovery of the overpayment. Sums underpaid in the five years preceding the discovery of the underpayment shall be awarded to the individual concerned.

CHAPTER 8

Article 89

DISCIPLINARY MEASURES

Article 88

1. Any failure by an official to comply with his obligations under these Staff Regulations or the Europol Convention, whether intentionally or through negligence on his part, shall make him liable to disciplinary action.
2. Disciplinary measures shall take one of the following forms:
 - (a) written warning;
 - (b) reprimand;
 - (c) relegation by a maximum of five incremental points in the appropriate salary scale for a period not exceeding six months, or reduction of his basic monthly salary up to a maximum amount of 25 % not exceeding the same period;
 - (d) placement of the official in a salary scale one below the one he is in at the time of the disciplinary measure;
 - (e) removal from post and, where appropriate, reduction or withdrawal of entitlement to retirement pension, but the consequences of this measure shall not affect the dependants of the official;
 - (f) termination of contract of officials recruited from the competent authorities as mentioned in Article 2(4) of the Europol Convention (with recommendation for disciplinary action).
3. In the application of disciplinary measures, due account shall be taken of the severity of the breach of obligation, as well as of the circumstances surrounding it, including intentionality, any possible disruption of the normal operations of Europol, damage caused to Europol itself, its disciplinary principles or hierarchy, and recidivism of the official concerned.
4. A single breach of obligation shall not give rise to more than one disciplinary measure.
5. Disciplinary measures shall be applied without prejudice to criminal liability incurred by an official through the breach of obligation.
6. Any official who persuades another official to breach his obligations, as well as a superior of the official who knowingly tolerated the breach, shall be liable to the same disciplinary measures as the official concerned.

A Disciplinary Board shall be set up within Europol to perform the functions assigned to it under these Staff Regulations. The composition and procedure of the Disciplinary Board shall be as established in Appendix 7.

The Director shall have the right to issue a written warning or a reprimand without consulting the Disciplinary Board, on a proposal from the official's immediate superior or on his own initiative. The official concerned shall be informed of this in writing, and be heard before such action is taken.

Other measures shall be ordered by the Director after the disciplinary procedure provided for in Appendix 7 has been completed. This procedure shall be initiated by the Director, on a proposal from the official's immediate superior or on his own initiative, after hearing the official concerned.

Article 90

Where an allegation of serious misconduct is made against an official by the Director, whether this amounts to failure to carry out his official duties or to a breach of law, the Director may order that he be suspended forthwith. This decision shall be communicated to the official in writing. A breach of the obligation of confidentiality as established in Article 10 shall be considered to be serious misconduct.

The decision that an official be suspended shall specify whether he is to continue to receive his remuneration during the period of suspension or that part thereof is to be withheld: the part withheld shall be one half of the official's basic salary.

A final decision shall be taken within six months from the date when the decision that an official be suspended came into force. Where no decision has been taken by the end of six months, the official shall again receive his full remuneration.

Where no disciplinary action has been taken in respect of an official, or no other measure than a written warning, reprimand or relegation of incremental points in his salary scale or reduction of salary in accordance with Article 88(2)(c) has been ordered, or if no final decision has been taken within the period specified within the preceding paragraph, the official concerned shall be entitled to reimbursement of the amount of remuneration withheld.

Where, however, the official is prosecuted for those same acts, a final decision shall be taken only after a final verdict has been reached by the court hearing the case.

Article 91

An official against whom a disciplinary measure other than removal from post or termination of contract has been ordered may each year, starting a year from the date of imposition, submit a request for the deletion from his personal file of all reference to such measure.

The Director shall, after consulting the Disciplinary Board in cases where the Board has taken part in the disciplinary procedure, decide whether to grant the official's request; if he decides to do so, the file as constituted following such deletion shall be communicated to him.

Where a disciplinary measure as mentioned in Article 88(2)(d), (e) or (f) has been imposed on an official recruited from a competent authority as mentioned in Article 2(4) of the Europol Convention, the Director must inform the competent authority thereof. Where a different disciplinary measure has been imposed, the Director will decide whether or not to inform the competent authority.

The preceding subparagraph will apply *mutatis mutandis* in cases where the reference of the disciplinary measure has been deleted from the personal file of the official in accordance with this Article.

CHAPTER 9

APPEALS

Article 92

1. Any person to whom these Staff Regulations apply may submit to the Director a request that he take a decision relating to him. The Director shall notify the person concerned of his reasoned decision within four months from the date on which the request was made. If at the end of that period no reply to the request has been received, this shall be deemed to constitute an implied decision rejecting it, against which a complaint may be lodged in accordance with the following paragraphs.

2. Any person to whom these Staff Regulations apply may submit to the Director a complaint against an act adversely affecting him, either where the Director has taken a decision or where he has failed to adopt a measure prescribed by the Staff Regulations. The complaint must be lodged within three months. The period shall start to run:

- on the date of publication of the act if it is a measure of a general nature,
- on the date of the notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification, if the

measure affects a specified person; if, however, an act affecting a specified person also contains a complaint against another person, the period shall start to run in respect of that other person on the date on which he receives notification thereof but in no case later than the date of publication,

- on the date of expiry of the period prescribed for reply where the complaint concerns an implied decision rejecting a request as provided for in paragraph 1.

The Director shall notify the person concerned of his reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it, against which an appeal may be lodged under Article 93.

3. A request or a complaint by an official shall be submitted through his immediate superior, except where it concerns that person, in which case it may be submitted direct to the authority next above.

Article 93

1. The Court of Justice of the European Communities shall have jurisdiction in any dispute between Europol and any person to whom these Staff Regulations apply regarding the legality of an act adversely affecting such a person within the meaning of Article 92(2). In disputes of a financial character the Court of Justice shall have unlimited jurisdiction.

2. An appeal to the Court of Justice shall lie only if:

- the Director has previously had a complaint submitted to him pursuant to Article 92(2) within the period prescribed therein, and,
- the complaint has been rejected by express decisions or by implied decision.

3. Appeals under paragraph 2 shall be filed within three months. The period shall begin:

- on the date of notification of the decision taken in response to the complaint,
- on the date of expiry of the period prescribed for the reply where the appeal is against an implied decision rejecting a complaint submitted pursuant to Article 92(2); nevertheless, where a complaint is rejected by an express decision after having been rejected by an implied decision but before the period for lodging an appeal has expired, the period for lodging the appeal shall start to run afresh.

4. By way of derogation from paragraph 2, the person concerned may, after submitting a complaint to the Director pursuant to Article 92(2), immediately file an appeal with the Court of Justice, provided that such appeal is accompanied by an application either for a stay of execution of the contested act or for the adoption of interim measures. The proceedings in the principal action before the Court of Justice shall then be suspended until such time as an express or implied decision rejecting the complaint is taken.

5. Appeals under this Article shall be investigated and heard as provided for in the Rules of Procedure of the Court of Justice of the European Communities.

CHAPTER 10

TERMINATION OF EMPLOYMENT

Article 94

Aprat from cessation on death, the employment of Europol staff shall cease:

1. Where the contract is for a fixed period:

- (a) on the date stated in the contract;
- (b) at the end of the period of notice specified in the contract, where the latter contains a clause giving the official or Europol the option to terminate earlier. Such period of notice shall be not more than three months nor less than one month. For Europol staff whose contracts have been renewed, the said period of notice shall not be less than one month per year of service, with a minimum of one month and a maximum of six months;
- (c) at the end of the month in which the official reaches the age of 65 years.

If Europol terminates the contract, the official shall be entitled to compensation equal to one third of his basic salary for the period between the date when his duties end and the date when his contract expires.

2. Where the contract is for an indefinite period:

- (a) at the end of the period of notice stipulated in the contract; the length of the period of notice shall not be less than one month for each completed year of service, subject to a minimum of three months and a maximum of 10 months. The period of notice shall not, however, commence to run during maternity leave or sick

leave, provided such sick leave does not exceed three months. It shall, moreover, be suspended during maternity or sick leave subject to the limits aforesaid;

- (b) at the end of the month in which the official reaches the age of 65 years.

Article 95

Employment, whether for a fixed or for an indefinite period, may be terminated by Europol without notice:

- (a) during or at the end of the probationary period in accordance with Article 26;
- (b) if the official ceases to satisfy the requirements of Article 24(2)(a) and (d); however, if the official ceases to satisfy the requirements of Article 24(2)(d), his contract may be terminated only in accordance with Article 65;
- (c) if the official is unable to resume his duties at the end of a period of paid sick leave as provided for in Article 38. In such case, the official shall receive an allowance equal to his basic salary, plus family allowances at the rate of two days per month of service completed.

Article 96

1. After the disciplinary procedure provided for in Appendix 7 has been followed, employment may be terminated without notice on disciplinary grounds in serious cases of intentional or negligent failure of an official to comply with his obligations. A reasoned decision shall be taken by the Director, after the official concerned has been given an opportunity of submitting his defence.

Before his employment is terminated, an official may be suspended, in accordance with Article 90.

2. Where employment is terminated in accordance with paragraph 1, the Director may decide:

- (a) to limit the severance grant provided for in Article 77 to repayment of the contribution provided for in Article 78, plus compound interest at the rate determined in Article 10 of Appendix 6;
- (b) to withhold in whole or in part the reimbursement of removal expenses referred to in Article 8(2) of Appendix 5;
- (c) to withhold in whole or in part the compensation provided for in Article 94(1).

Article 97

1. The employment of an official shall be terminated by Europol without notice if the Director finds:

- (a) that at the time of his engagement he deliberately furnished false information as to either his professional ability or the requirements of Article 24(2), and

(b) that the false information furnished was a determining factor in his being engaged.

2. In such cases the Director shall, after hearing the official concerned, and after the disciplinary procedure provided for in Appendix 7 has been followed, declare that the official's employment is terminated.

Before his employment is terminated, the official may be suspended in accordance with Article 90.

The provisions of Article 96(2) shall apply.

TITLE III

LOCAL STAFF

Article 98

Subject to the provisions of this Title, the conditions of employment of local staff, in particular:

- (a) the manner of their engagement and termination of their contract;
- (b) their leave, and
- (c) their remuneration

shall be determined by Europol in accordance with current rules and practice in the place where they are to perform their duties.

Local staff shall be bound by the provisions on discretion and confidentiality as established by Article 31 and 32 of the Europol Convention, and any regulations based thereon.

Article 99

As regards social security, Europol shall be responsible for the employer's share of the social security contributions under current regulations in the Netherlands.

Article 100

1. Any dispute between Europol and a member of the local staff serving in a Member State shall be submitted to the competent court in accordance with the laws in force in the place where he performs his duties.

2. Any dispute between Europol and a member of the local staff serving in a third country shall be submitted to an arbitration board under the conditions defined in the arbitration clause contained in his contract.

TITLE IV

TRANSITIONAL PROVISIONS

Article 101

1. Officials who are posted to the Europol Drugs Unit (EDU) in accordance with Article 5(2) of the Joint Action of 10 March 1995 (OJ L 62, 20.3.1995, p. 1), and who have fulfilled their tasks satisfactorily as laid down in a written assessment by the EDU management, shall be offered a new contract by the Europol Director in accordance with these Staff Regulations, within six months of the time the regulations enter into force.

2. Such a contract shall be an initial contract for a fixed term between one and four years as Europol staff in

accordance with Article 6, or an indefinite contract as local staff in accordance with Article 98.

3. In the framework of the transition plan mentioned under paragraph 5, the duration of the fixed-term contract shall be adjusted downward by the Director in conformity with the preferences expressed by the Member State concerned.

4. The job description in the contract to be offered shall take account of the tasks and functions the official has fulfilled during his posting to the EDU, and his qualifications and experience for the post for which the contract is offered. The contract shall take effect within six months of the date on which these Staff Regulations enter into force.

5. In offering the contracts mentioned above, the Director shall act in accordance with a transition plan, to be submitted by him beforehand to the Management Board for approval. The plan must take account of the rotation provided for in Article 6, the necessary continuity of the organisation in the framework of the new budget, the number of years of service with EDU, the interest of the Member States and their adequate representation within Europol, the interests of the host State, and the interests of the individuals concerned. In the transition plan, each different post shall be considered separately.

6. The posting of an official who refuses an offer or whose service during the EDU-period has not been considered satisfactory, will be considered to have ended

at the date of refusal or the date that the official receives the message that no contract will be offered.

Article 102

The pay scales given in Article 45 shall be reviewed in accordance with Article 44 on the entry into force of these regulations.

Article 103

Officials seconded to the EDU by the Member States, with the exception of liaison officers, may be offered a contract in accordance with Article 101 with the approval of their seconding authorities.

TITLE V

ENTRY INTO FORCE

Article 104

These Staff Regulations shall enter into force on 1 January 1999.

Done at Brussels, 3 December 1998.

For the Council
The President
K. SCHLÖGL

—

APPENDIX 1

Europol posts

1. Subject to paragraph 3, the following posts shall be Europol posts:

Director

Deputy directors

Assistant directors

Intelligence
Exchange of information
Operational support
Technology
Personnel, training and welfare (human resources)
Administration, finance and security
Strategic planning

Head of

Intelligence development for EU Member States
Intelligence development for PECO countries
Intelligence development for the rest of the world
Analysis
Liaison with non-EU bodies
Investigation support
Operational support
Research and development (criminality and techniques)
IT services
Convention title II matters
Technical support
Directorate support
External and media relations
Training
Security
Documentation services (including open sources research)
Personnel

Head of

Legal and data protection services
Welfare services
Finance
General services

First officers

Intelligence (specialised areas)
Strategic analysis
Operational analysis
Investigation support
Operational support
Research and development
Data security
Title II Matters Policy and Procedure
Performance analysis
Press and public relations
Personnel — recruitment officer

First officers	Documentation services (open sources research) IT computer operations IT development IT application support Directorate support Business planning and activity monitoring Data protection Legal adviser Visits and conferences Internal communication Personnel: — Salary and allowance administration — Internal Training Finance General services [Security] ⁽¹⁾
Second officers	Intelligence (specialised areas) Strategic analysis Operational analysis Investigation support Operational support Research and Development Data security Performance analysis Press and public relations
Second officers	Documentation services (open sources research) IT computer operations IT development IT application support Title II matters Directorate support Business planning and activity monitoring Visits and conferences Internal communication Personnel Internal training Finance General services [Security] ⁽¹⁾
Directorate assistants	Assistant to the Director Assistant to the deputy directors
Assistants	Analytical assistants
Assistants	Assistants to the assistant directors Directorate support assistants Administrative assistants (all relevant departments) General services assistants (*) Technical assistants (*)

⁽¹⁾ Security personnel will continue to be paid according to local conditions for as long as this category is paid for predominantly by the Dutch Government. To indicate this, these posts have been put in brackets.

Other personnel	Specialised drivers (*)
	Drivers (*)
	[Security officers] ⁽¹⁾ (*)
	Operators (*)
	Qualified Workers (*)

2. The posts listed in **bold** may only be filled by personnel engaged from the competent national authorities, in accordance with Articles 2 and 6 of the Staff Regulations. The competent national authorities means all public bodies existing in the Member States which are responsible under national law for preventing and combating criminal offences. The Member State concerned shall inform Europol whether or not it considers a candidate for a Europol post listed in bold as being employed by one of their competent national authorities.

3. The Management Board of Europol shall, in accordance with Article 28(1)(15) of the Europol Convention, take part in the drawing up of the budget and the establishment plan. In that context, it shall propose to the Council the extent to which the posts listed in this Appendix may be filled or combined. The Council shall decide, in accordance with Article 35 of the Europol Convention, on the budget of the organisation.

4. If, in the context of drawing up the establishment plan and budget, the Management Board decides that a particular post in a category listed in bold should be subject to open recruitment, the post may be filled by open competition. In such cases, the contract to be offered may only be a temporary one with the possibility of one renewal in accordance with Article 6 of the Staff Regulations.

5. Posts marked with an asterisk (*) shall be regarded as posts to be filled by local staff as mentioned in Article 3 of the Staff Regulations. However, the Council, acting on a proposal submitted by the Management Board, initiated by the Director of Europol, shall within two years after the entry into force of the Europol Convention, decide whether or not these posts continue to be regarded as posts to be filled by local staff.

6. The following scales, as established in Article 45 of the Staff Regulations, shall be attached to the posts mentioned in paragraph 1:

<i>Scale</i>	<i>Post</i>
1	Director
2	Deputy director
3	Assistant director
4 to 5	Head of unit
5 to 7	First officer
6 to 10	Directorate assistant
7 to 10	Second officer, assistant
11 to 13	Driver, operator, qualified worker, security officer

⁽¹⁾ Security personnel will continue to be paid according to local conditions for as long as this category is paid for predominantly by the Dutch Government. To indicate this, these posts have been put in brackets.

*APPENDIX 2***Selection procedures***Article 1*

Selection for an Europol post will be based on personal suitability and professional qualifications. A balanced representation of women and men is important just as an adequate representation of nationals of all Member States and of the official languages of the European Union.

Europol is committed to a policy of equal opportunity for all staff, regardless of ethnic origin, religious belief, or any other irrelevant factor.

Recruitment for Europol posts shall take place in accordance with Chapter 3 of the Staff Regulations and the following provisions.

Article 2

1. A Selection Board shall be set up by the Europol Director. It shall advise the Director on the candidates' suitability, and shall endeavour to list the candidates in order of merit.
2. The composition of the Selection Board shall vary according to the category of post to be filled.
3. For the posts of Assistant Director, the Selection Board shall consist of the Director or his delegate, Chairman of the Board, a Deputy Director and a responsible official of the Personnel Unit. Furthermore, three Member States, including the Presidency, may, if they so wish, assign a representative to serve as a member of the Selection Board.
4. For posts in scales 4 to 6 and the First Officer posts in scale 7 of Article 45 and Appendix 1 of the Staff Regulations, the Selection Board shall consist of a Deputy Director or his delegate, Chairman of the Board, a responsible official of the Personnel Unit, and the Head of Unit concerned. Furthermore, two Member States, including the Presidency, may, if they so wish, assign a representative to serve as a member of the Selection Board.
5. Each Presidency shall determine at the beginning of its six-month period of office, by drawing lots, which other Member States may be represented on the Selection Board during the Presidency in accordance with paragraphs 3 and 4.
6. For posts in scales 7 (First Officer posts excluded) to 13 of Article 45 and Appendix 1 of the Staff Regulations, the Selection Board shall consist of a Deputy Director or his delegate, Chairman of the Board, the Head of the Personnel Unit and the Head of Unit concerned. Furthermore the Presidency, may, if it so wishes, assign a representative to serve as a member of the Selection Board.
7. The Selection Board shall decide whether an external expert should be appointed by the Director to the Selection Board for a specific vacancy to deal with technical questions.
8. Where a member of the Selection Board appears to have a personal relationship with one of the applicants for a Europol post, he shall not participate in the selection process. In such cases, the Selection Board shall propose his replacement to the Director.
9. In the case of a draw in a vote in the Selection Board the vote of the Chairman will be decisive.
10. The Staff Committee shall be informed of all vacancies and selection procedures.
11. The secretariat of the Selection Board, and other administrative functions associated with the selection procedures, shall be the responsibility of the Personnel Unit.

Article 3

1. For each vacant post, an advertisement shall be drawn up by Europol describing in detail the nature of the post, including remuneration, the duties to be performed, and the qualifications, skills and experience required.

The advertisement shall state specifically that candidates submit their applications in writing, accompanied by a curriculum vitae.

The advertisement shall also provide information on the security screening the successful applicant will be required to go through in compliance with the confidentiality regulations based on Article 31 of the Europol Convention.

2. A vacancy for Europol staff shall be advertised in all Member States.

Europol shall inform the Europol National Units of all vacancies for Europol posts. The National Units shall inform the relevant agencies within their Member State of the vacancy. The competent national authorities shall be responsible for ensuring that the vacancy is brought to the attention of the agencies and all the personnel concerned.

In the case of a vacancy for a post which may also be filled by a person not engaged from the competent national authorities as defined in Article 2(4) of the Europol Convention, the vacancies shall also be advertised by Europol directly, using the *Official Journal of the European Communities* and such other media as to ensure maximum exposure in all the Member States.

3. For all vacant posts, both internal and external applications shall be considered.

Article 4

Applicants shall be requested to submit their applications to Europol within 60 days after the date of publishing of the official advertisement. Europol shall send an acknowledgment of receipt to the applicants.

Article 5

On the basis of qualifications, experience, the profile sought, and any pre-selection as provided for in Article 24 of the Staff Regulations, the Selection Board will make an initial selection from the applications received.

In the cases mentioned in Article 2(6), the Selection Board may decide to leave the initial selection to one or more of its members.

A minimum of five, if possible, and a maximum of 20 applicants per post to be filled may be selected and shall be invited to undergo a specific post related written or any other test procedure. The Selection Board will decide on the specific necessities.

Article 6

The test(s) shall be prepared by the Director of Europol in consultation with the Selection Board in order to appraise the specific qualifications and expertise of the applicants for the post concerned. The results of the test(s) shall be marked — on the basis of anonymity — by the Selection Board.

Article 7

The Selection Board shall interview all applicants who passed the test(s). These interviews may also be used to test the applicants' knowledge of the official languages of the European Union with reference to Article 30(2) of the Europol Convention and Article 24 of the Staff Regulations.

The questions put to the applicants shall not relate in any way to the occupation of the applicants' family members or social background.

Article 8

The tests and interviews shall be held in The Hague. Travel expenses and any subsistence and hotel accommodation expenses shall be reimbursed to the applicants in accordance with the rules laid down in Appendix 5.

Article 9

Once the interviews have been completed, the Selection Board shall draw up a list of the successful applicants in order of merit; this list shall be forwarded to the Director as soon as possible.

Should the Selection Board come to the conclusion that none of the applicants is suited for the post, it shall inform the Director, who shall reissue the advertisement for the post as soon as possible.

Article 10

The Director shall decide as soon as possible after receiving the advice of the Selection Board. He shall inform the members of the Selection Board of his decision.

The Director shall inform the applicants of the outcome of the procedure.

*APPENDIX 3***Compensatory leave and remuneration for overtime***Article 1*

Within the limits laid down in Article 33 of the Staff Regulations, overtime worked by an official in scales 11 to 13 of Article 45 of the Staff Regulations shall entitle him to compensatory leave or to remuneration as follows:

- (a) For each hour of overtime, he shall be entitled to one hour and a half off as compensatory leave; if the hour of overtime is worked between 10 p.m. and 7 a.m. or on a Sunday or on a public holiday, the entitlement to compensatory leave shall be two hours; in the granting of compensatory leave, account shall be taken of the requirements of the service and the preference of the official concerned;
- (b) Where the requirements of the service do not permit compensatory leave to be taken during the two months following that during which the overtime was worked, the Director shall authorise remuneration for uncompensated hours of overtime at the rate of 0,578 % of the monthly basic salary for each hour of overtime on the basis set out in subparagraph (a);
- (c) To qualify for compensatory leave or remuneration for one hour's overtime, the extra time worked must have been more than 30 minutes.

Article 2

If an official is travelling on mission, the time taken to reach the place of assignment and to travel back shall not be treated as overtime for the purposes of this Appendix. As regards hours worked at the place of assignment in excess of the normal number of working hours, compensatory leave or remuneration, as the case may be, may be allowed by decision of the Director.

APPENDIX 4

Leave

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SECTION 1

Annual leave

Article 1

In the year in which an official enters or leaves the service, he shall be entitled to two and a half working days' leave per complete month of service, to two working days for an incomplete month consisting of more than 15 days and to one working day for an incomplete month of 15 days or less.

Article 2

Annual leave may be taken all at once or in several periods as desired by the official and according to the requirements of the service. It shall, however, include at least one period of two consecutive weeks. An official entering the service shall be granted annual leave only after completing three months' duty; leave may be granted earlier by the Director in exceptional cases for reasons duly substantiated.

Article 3

If, during annual leave, an official contracts an illness which would have prevented him from attending for duty if he had not been on leave, his annual leave shall be extended by the duration of his incapacity, subject to production of a medical certificate.

Article 4

Where an official, for reasons other than the requirements of the service, has not used up all his annual leave before the end of the current calendar year, the amount of leave which may be carried over to the following year shall not exceed 12 days. This amount of leave shall be used up in the following year.

Article 5

Where an official is recalled to duty for service reasons while on annual leave or has had his leave cancelled, any extra costs incurred by him shall be reimbursed, subject to production of appropriate evidence, and travelling time shall be granted afresh.

SECTION 2

Special leave

Article 6

1. In addition to annual leave, an official may, on application, be granted special leave. In particular, in the following cases special leave shall be granted as shown:

- (a) marriage of the official: five days;
- (b) change of residence of the official: up to two days;
- (c) birth or marriage of a child: two days;
- (d) death of spouse: five days;
- (e) death of a child: five days;
- (f) death of father or mother, or of the father or mother of spouse: three days;
- (g) serious illness of spouse: up to three days;
- (h) serious illness of a child: up to two days.

2. In the cases mentioned in paragraph 1(d) to (h), the Director may extend the special leave up to a maximum of 10 days.

SECTION 3

Travelling time

Article 7

1. To the period of leave provided for in Section 1 above shall be added a maximum of four days of travelling time for the outward and return journey based on the normal time needed to travel directly by train or, where this is not possible, by air, between the place of leave and the place of employment if the distance between the two places is more than 350 km by rail. For the purposes of this Article, the place of leave in respect of annual leave shall be the place of origin as determined in accordance with Article 6(3) of Appendix 5.

2. Where special leave is granted in pursuance of Section 2 above, any travelling time shall be fixed by special decision of the Director taking into account particular needs.

APPENDIX 5

Remuneration and reimbursement of expenses

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SECTION 1

Family allowances

Article 1

1. The household allowance shall be fixed at 5% of the basic salary of an official; but shall not exceed 5% of the amount specified for the last incremental point of scale 6 of Article 45 of the Staff Regulations.

2. The household allowance shall be granted to:

- (a) a married official;
- (b) an official who has one or more dependent children within the meaning of Article 2(2) and (3) below;
- (c) by special reasoned decision of the Director based on supporting documents, an official who, while not fulfilling the conditions laid down in (a) and (b), nevertheless actually assumes family responsibilities.

3. If the spouse of an official is gainfully employed, with an annual income before deduction of tax of more than the basic annual salary of an official in the third incremental point of Scale 13, the official entitled to the household allowance shall not receive this allowance, save by special decision of the Director. The official shall, however, be entitled to the allowance where the couple have one or more dependent children.

4. In cases where, under the foregoing provisions, an official and his spouse employed in the service of Europol are both entitled to a household allowance, this shall be payable only to the person whose basic salary is the higher.

5. If the official is entitled to the household allowance only by virtue of paragraph 2(b) and a person other than the official has by law or by an order of court or of the competent administrative authority been given custody of all his dependent children within the meaning of Articles 2(2) and (3) below, the household allowance shall be paid to that other person in the name and on behalf of the official. This condition shall be deemed to be fulfilled in the case of dependent children who have reached their majority if such children have their normal residence with the other parent.

If, however, the official's children are in the care of several different persons, the household allowance shall be divided among them according to the number of children in their care.

If the person eligible by virtue of the foregoing to receive the household allowance paid in the official's name is also eligible to receive this allowance by reason of his or her own status as official or other member of staff, that person shall receive the higher of the two allowances only.

Article 2

1. An official who has one or more dependent children shall, in accordance with paragraphs 2 and 3 below, receive an allowance of NLG 460 per month for each dependent child.

2. 'Dependent child' means the legitimate, natural or adopted child of an official, or of his spouse, who is actually being maintained by the official.

The same shall apply to a child for whom an application for adoption has been lodged and the adoption procedure started.

3. The allowance shall be granted:

- (a) automatically for children under 18 years of age;
- (b) on application, with supporting evidence, by the official for children between 18 and 21 who are receiving educational or vocational training.

4. Any person whom the official has a legal responsibility to maintain and whose maintenance involves heavy expenditure may, exceptionally, be treated as if he were a dependent child by special reasoned decision of the Director, based on supporting documents.

5. Payment of the allowance in respect of a child prevented by serious illness or invalidity from earning a livelihood shall continue throughout the period of that illness or invalidity, irrespective of age.

6. Not more than one dependent child allowance shall be paid in respect of any one dependent child within the meaning of this Article.

7. If custody of the dependent child within the meaning of paragraphs 2 and 3 has been entrusted by law or by an order of court or of the competent administrative authority to another person, the dependent child allowance shall be paid to that person in the name and on behalf of the official.

Article 3

1. An official in receipt of an expatriation allowance shall receive an education allowance equal to 75 % of the actual education costs incurred by him, for actual education costs which do not exceed a maximum of NLG 20 000 per year for each dependent child, within the meaning of Article 2(2) above, who is in regular full-time attendance at an educational establishment for primary or secondary education.

The education allowance shall be NLG 4 500 per year for all officials, if the child is in regular full-time attendance at an educational establishment for tertiary education.

Entitlement to this allowance commences on the first day of the month in which the child begins to attend a primary educational establishment and shall cease at the end of the month in which the child reaches the age of 21.

2. The maximum amount mentioned in paragraph 1 shall be NLG 27 000 per year, in the case where the child is disabled and requires special teaching or training to overcome the disability or to prepare for integration into society. The limitation of the education allowance specified in the second subparagraph of paragraph 1 shall not apply in such cases.

3. In cases where the child attends an educational institution situated further than 50 km away from The Hague, board costs shall also be included in the admissible expenses under this Article, up to the maximum amount specified in paragraphs 1 and 2.

4. If custody of the child in respect of whom the education allowance is paid has been entrusted by law or by an order of court or of the competent administrative authority to another person, the education

allowance shall be paid to that person in the name and on behalf of the official. In such case, the distance of at least 50 km referred to in the preceding paragraph shall be calculated from the place of residence of the person having custody of the child.

5. This Article shall be revised if a European school is opened in The Hague.

SECTION 2

Expatriation allowance

Article 4

1. An expatriation allowance shall be paid each month in accordance with Article 47 of the Staff Regulations, as follows:

- (a) for officials in scales 1, 2 and 3, an amount of NLG 2 000;
- (b) for officials in scales 4, 5 and 6, an amount of NLG 1 500;
- (c) for officials in scales 7, 8 and 9, an amount of NLG 1 000;
- (d) for officials in scales 10, 11, 12 and 13, an amount of NLG 800.

2. The expatriation allowance shall be payable

(a) to officials:

- who are not and have never been nationals of the State in whose territory the place where they are employed is situated, and
- who during the five years ending six months before they entered the service did not habitually reside or carry on their main occupation within the European territory of that State. For the purposes of this provision, circumstances arising from work done for another State or for an international organisation or for the Europol Drugs Unit shall not be taken into account;

(b) to officials who are or have been nationals of the State in whose territory the place where they are employed is situated but who during the 10 years ending at the date of their entering the service habitually resided outside the territory of the Member States of the European Union for reasons other than the performance of duties in the service of a State or of an international organisation.

3. For the purposes of paragraphs 1 and 2, an official who has, by marriage, automatically acquired, without the possibility of renouncing it, the nationality of the State in whose territory his or her place of employment is situated, shall be treated in the same way as an official covered by the first indent of paragraph 2(a).

SECTION 3

Reimbursement of expenses

A. Rent allowance

Article 5

An official serving a contract of limited duration who is in receipt of an expatriation allowance shall be entitled to a rent allowance if the actual rent costs exceed 25 % of the net monthly salary in cases where he qualifies for a household allowance and 30 % of the net monthly salary in cases where he does not.

The rent allowance shall be 80 % of the actual rent costs exceeding the amounts mentioned above during the first two years of the contract, 70 % of those costs in the third year, 60 % in the fourth year and 40 % in the fifth and sixth year. Actual rent costs exceeding the reasonable maximum rent costs shall not be taken into account for the purposes of this calculation.

The reasonable maximum rent costs shall be NLG 3 000 for a single official, NLG 4 000 for an official sharing the accommodation with his spouse and/or up to two dependent children within the meaning of Article 2(2), and NLG 5 000 for staff members sharing the accommodation with his spouse and/or three or more dependent children within the meaning of Article 2(2).

Officials shall, when applying for the rent allowance, inform Europol of their actual living arrangements, including information on whether or not they share their accommodation with their spouse and/or children. Where no such information is supplied, the reasonable maximum rent costs shall be set at the rate applicable for a single official.

The rent allowance shall under no circumstances be more than 40 % of the actual rent costs or the reasonable maximum rent cost, whichever is the lower.

B. Travel expenses

Article 6

1. An official shall be entitled to reimbursement of travel expenses for himself, his spouse and his dependants actually living in his household:

- (a) on taking up his appointment, from the place where he was recruited to the place where he is employed;
- (b) on termination of service within the meaning of Articles 94 and 97 of the Staff Regulations, from the place where he is employed to the place of origin as defined in paragraph 3 below;
- (c) on any transfer involving a change in the place where he is employed.

In the event of the death of an official, the widow, widower and dependants shall be entitled to reimbursement of travel expenses under the same conditions.

Travel expenses shall also include the cost of seat reservations, transport of luggage and, where applicable, hotel expenses necessarily incurred.

2. The basis for the calculation of reimbursement shall be:

- the shortest and most economical standard route by rail between the place of employment and the place of recruitment or origin,
- first-class fare for officials in scales 1 to 6 of Article 45 of the Staff Regulations, second-class for other officials. However, if the outward-and-return journey covers a distance of 800 km or more, officials in other scales shall also be reimbursed the first-class fare,
- where the journey includes not less than six hours of night travel between 10 p.m. and 7 a.m., sleeping accommodation up to the cost of tourist class or couchette, on production of the relevant ticket.

Where the route referred to in the first indent of the first subparagraph exceeds 500 km and in cases where the usual route includes a sea crossing, the official concerned shall be entitled, on production of the tickets, to reimbursement of the cost of travel by air in the most economical way.

Where a means of transport other than those mentioned above is used, calculation of reimbursement shall be based on the cost by rail in the appropriate class, excluding sleeping accommodation. Where calculation on this basis is not possible, the terms of reimbursement shall be determined by special decision of the Director.

3. An official's place of origin shall be determined when he takes up his appointment, account being taken of where he was engaged or the centre of his interests. The place of origin as so determined may by special decision of the Director be changed while the official is in service or when he leaves the service. While he is in the service, however, such decision shall be taken only exceptionally and on production by the official of appropriate supporting evidence.

Article 7

1. An official shall be entitled to be paid once each calendar year a sum equivalent to the actual costs of travel incurred by him from the place where he is employed to his place of origin as defined in Article 6(3) for himself and, if he is entitled to the household allowance, for his spouse and dependants within the meaning of Article 2, if the distance by rail between the place of employment and the place of origin is more than 350 km.

Where an official and his spouse are both officials of Europol, each has the right in respect of himself or herself and in respect of dependants to the payment of travel expenses, in accordance with the above provisions; each dependant shall be entitled to one payment only. The payment in respect of dependent children is fixed at the request of either spouse, on the basis of the place of origin of one or other of them.

2. The reimbursement shall, on production of the ticket(s), be based on the cost of a first-class return ticket by rail in the case of officials in scales 1 to 6 and of a second-class return ticket in the case of other officials. However, if the distance of the outward-and-return journey is 800 km or more, payment for officials in other scales shall also be based on the cost of a first-class ticket. Where calculation on these bases is not possible, the terms of payment shall be fixed by special decision of the Director.

Where the distance by rail between the official's place of employment and his place of origin exceeds 500 km and in cases where the usual route includes a sea crossing, he shall be entitled, on production of the tickets, to reimbursement of the cost of travel by air in the most economical way.

3. Where the official uses his private car for the purposes outlined in this Article, he shall be reimbursed NLG 0,40 per kilometre travelled, but never more than the costs would have been had he travelled using public transport.

4. The preceding provisions shall apply to officials whose place of employment and place of origin are in the territory of a Member State of the European Union. An official whose place of employment and/or place of origin are outside that territory shall be entitled for himself and, if he is entitled to receive the household allowance, for his spouse and other dependants within the meaning of Article 2, in each calendar year, subject to the submission of supporting documents, to repayment of the actual travel expenses to his place of origin, or to repayment of travel expenses to another place not exceeding the expenses of travel to his place of origin.

However, if the spouse and the persons referred to in Article 2(2) do not live with the official at his place of employment, they shall be entitled once in each calendar year, subject to the submission of supporting documents, to repayment of travel expenses from the place of origin to the place of employment or to repayment of actual travel expenses to another place not exceeding the costs of the former journey.

*C. Removal expenses**Article 8*

1. The expenses incurred in respect of removal of furniture and personal effects, including the cost of insurance against ordinary risks (breakage, theft, fire), shall be reimbursed to an official who is obliged to change his place of residence in order to comply with Article 16 of the Staff Regulations and who has not been reimbursed in respect of the same expenses from another source. Such reimbursement shall not exceed the amount of an offer approved in advance. Not less than two offers shall be submitted to the appropriate departments of Europol, which may, if they consider the offer to be excessive, select another removal firm. In the latter case, entitlement to reimbursement may be limited to the amount of that firm's offer.

2. On termination of service or on the death of an official, the expenses incurred in respect of removal from the place where he was employed to his place of origin shall be reimbursed under the same procedure.

Where the deceased official had no spouse, the expenses shall be reimbursed to those entitled under him.

3. Removal shall be effected within one year of the end of the probationary period. On termination of service, removal shall be effected within three years.

Removal expenses arising after the expiry of the time-limits set out above shall be reimbursed only in exceptional cases by special decision of the Director.

D. Mission expenses

Article 9

1. An official travelling on official business (hereinafter referred to as 'mission') and holding an appropriate authorisation shall be entitled to reimbursement of travel expenses, to costs of accommodation and to daily subsistence allowance in accordance with the following provisions.

2. The authorisation shall state the probable duration of the mission, on the basis of which shall be calculated any advance which the official may draw against subsistence allowance and travel costs. Save where a special decision is taken, no advance shall be payable where the mission is not expected to involve an absence of more than 24 hours and is to be carried out in a country using the same currency as that used in the place where the official is employed.

Article 10

1. Travel expenses for officials on mission shall cover the costs of first class rail transport by the shortest route.

Travel expenses shall also include:

- transport to and from the station, harbour or airport — both on the onward and the return journey,
- the cost of seat reservations and transport of necessary luggage,
- supplements for sleeping accommodation (reimbursed against production of sleeper tickets) where the journey includes not less than six hours of night travel between 10 p.m. and 7 a.m.,
 - in a single sleeper or, if not available, special sleeper for the Director as well as for the Deputy Director or Assistant Directors,
 - in a double sleeper for other officials,
 - where the train to be taken does not have sleeping accommodation of the category specified for the officials, reimbursement shall be made on the basis of the next highest available category.

2. An official may be authorised to travel by air, in the most economical way. In that case reimbursement shall be made against production of tickets for business class for officials in scales 1 to 4, and economy class for other officials.

By decision of the Director, officials accompanying an official in scale 1 to 4 on a given mission may, on production of tickets, be reimbursed the cost of the journey in the same class as that used by the member for that journey.

Under the conditions laid down in rules adopted by the Management Board, officials who travel on mission under particularly tiring conditions may, by decision of the Director, be reimbursed the cost of the journey in the class used, on production of tickets.

3. For journeys by sea, the class of travel shall be determined in each case by the Director.

4. An official may be authorised to use his own car on a given mission, provided that the duration of the mission is not thereby significantly increased.

Reimbursement of travel expenses shall in that case be calculated on the standard basis prescribed in paragraph 1.

In the case of an official travelling regularly on mission in special circumstances, however, the Director may decide to grant that official an allowance per kilometre covered instead of reimbursement or rail fares, if the

use of public transport and reimbursement of travel expenses on the normal basis involve definite disadvantages.

An official authorised to use his own car shall remain fully liable for any accidents to his car or to third parties; he must be in possession of an insurance policy covering civil liability up to an amount considered adequate by the Director.

5. The costs of hired transport or a taxi shall be fully reimbursed if deemed necessary in the interests of the mission by a duly authorised Europol official.

Article 11

Any reimbursement received from third parties for expenditures provided for in this section shall be deducted from the reimbursement to which the staff member concerned is entitled. Should the European Commission's community reimbursement scheme for travel and accommodation expenses apply to the staff member concerned, he shall not be entitled to any reimbursement on the basis of these regulations.

Article 12

If a staff member can demonstrate that he incurred expenses on mission due to some illness or accident, he may be granted some amount of reimbursement to cover those expenses insofar as he was obliged to pay for them for himself.

If a staff member can demonstrate that he incurred expenses arising from loss or theft of or damage to luggage that he needed on mission, he may be granted some reimbursement, which amount shall be limited to the relevant maximum amount established by the Director.

Article 13

1. Costs of accommodation shall be reimbursed in accordance with the rules determined by the Management Board.

Reimbursement shall not be provided for the costs of accommodation connected to:

- (a) a mission of less than four hours;
- (b) any segment of a mission of less than four hours, which segment takes place in the Netherlands and immediately follows or precedes travel by air or sea.

2. A staff member who is entitled to reimbursement for overnight accommodation shall be reimbursed for the expenses he incurs for such accommodation.

3. Reimbursement for meals shall not be granted if the staff members concerned had the opportunity during his mission to receive meals provided (either at a cost or free of charge), unless he can demonstrate that he was unable to use those provisions.

4. The amount of reimbursement provided for under paragraph 1 may be reduced by the Director if he finds that the nature of the activities or conditions of travel of the staff member concerned justify such action and if that staff member is obliged to undertake numerous missions.

5. The Director may grant an official partial or full entitlement to reimbursement over and above that which is provided for under this Article if, due to unusual circumstances, those provisions for reimbursement are not sufficient to cover that staff member's accommodation costs and he can provide all the documentation required.

Article 14

The details of the daily subsistence allowance and costs of accommodation to be reimbursed shall be as laid down in the rules determined by the Management Board.

E. Fixed reimbursement of expenses

Article 15

1. The Director and Deputy Directors who, by reason of their duties, incur representation expenses may be granted a fixed rate allowance by the Management Board, which shall determine the amount thereof in relation to actual costs.

2. In the case of officials who, as a result of special instructions, occasionally incur representation expenses for official purposes, the amount of the representation expenses to be reimbursed shall be determined by the Director, based upon appropriate receipts.

APPENDIX 6

Pension scheme

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CHAPTER 1

GENERAL PROVISIONS

Article 1

1. Where the medical examination made before an official takes up his duties shows that he is suffering from sickness or invalidity, the Director, insofar as risks arising from such sickness or invalidity are concerned, may decide to admit that official to guaranteed benefits in respect of invalidity or death only after a period of four years from the date of his entering the service of Europol.

2. An official on leave for national service as defined in Article 42 of the Staff Regulations shall cease to benefit from the guarantees in respect of invalidity or death arising directly from an accident sustained, or sickness contracted, by reason of such service. The foregoing provisions shall not affect the entitlement of survivors to pension on the basis of rights acquired by the official on the date when he is placed on such leave.

3. Where in this Appendix a widow or divorced wife is mentioned, it shall equally apply to a widower or divorced husband.

CHAPTER 2

RETIREMENT PENSION AND SEVERANCE GRANT

Section 1

Retirement pension

Article 2

A retirement pension shall be payable on the basis of the total number of years of pensionable service acquired by the official. Each year of service reckoned as provided for in Article 3 shall entitle him to one year of pensionable service and each complete month to one twelfth of a year of pensionable service.

The maximum number of years of pensionable service which may be taken into account for the calculation of retirement pension rights shall be 35.

Article 3

For the purpose of calculating years of pensionable service within the meaning of Article 2, the following shall be taken into account:

- (a) the period of service as an official of Europol in accordance with the Staff Regulations;
- (b) a period of personal leave taken in accordance with Article 41 of the Staff Regulations;

provided that the official concerned has paid his share of the pension contribution in respect of such periods of service.

Article 4

An official who having previously completed a period of activity in the service of Europol as an official resumes active employment with Europol shall acquire further pension rights. He may request that, for the purpose of calculating his pension rights, the whole of the period of service as an official for which contributions have been paid be taken into account, subject to his repaying any sums paid to him pursuant to Article 10 of this Appendix or to Article 77 of the Staff Regulations or received by him by way of retirement pension, plus compound interest at the rate of 3,5 % per annum.

Where the official, being entitled to a retirement pension, does not repay the sums referred to in the first paragraph, a capital sum representing the actuarial equivalent of his retirement pension as at the date on which such pension ceased to be paid to him, plus compound interest at the rate of 3,5 % per annum, shall be paid to him in the form of a deferred retirement pension payable at the age when he ceases to perform his duties.

Where an official, on terminating his service, is entitled to a severance grant, this grant shall be reduced by the amount of the payments made under Article 79 of the Staff Regulations increased with compound interest at the rate of 3,5 % per annum; where he is entitled to a retirement pension, his pension rights shall be reduced in proportion to the payments made under that Article.

Article 5

The minimum subsistence figure for the purpose of calculating pension benefits shall correspond to the gross basic salary of scale 13, first incremental point, provided that the person concerned has no pension rights from other sources.

Article 6

'Actuarial equivalent of the retirement pension' means the capital value of the benefits accruing to the official, calculated by reference to the latest mortality tables compiled by the budgetary authorities of the European Communities in accordance with Article 35, the rate of interest applicable being 3,5 % per annum.

Article 7

An official leaving the service before reaching the age of 62 years may request that his retirement pension:

- be deferred until the first day of the calendar month following that in which he reaches the age of 62, or
- be paid immediately, provided that he is not less than 52 years of age. In this case, the retirement pension shall be reduced by an amount calculated by reference to the official's age when he starts to draw his pension, as shown in the following table:

Pension payable on early retirement expressed in terms of the pension payable on retirement at age 62

Retirement at age	Coefficient
52	0,50678
53	0,53834
54	0,57266
55	0,61009
56	0,65582
57	0,69582
58	0,74508
59	0,79936
60	0,85937
61	0,92593

Article 8

The right to receive payment of retirement pension shall have effect from the first day of the calendar month following that in which the official, whether automatically or at his own request, becomes eligible for that pension; he shall continue to receive his remuneration until his pension becomes payable.

Article 9

1. An official who leaves the service of Europol to:

- enter the service of a government administration or a national or international organisation which has concluded an agreement with Europol,
- pursue an activity in an employed or self-employed capacity, by virtue of which he acquires pension rights under a scheme whose administrative bodies have concluded an agreement with Europol,

shall be entitled to have the actuarial equivalent of his retirement pension rights in Europol transferred to the pension fund of that administration or organisation or to the pension fund under which he acquires retirement pension rights by virtue of the activity pursued in an employed or self-employed capacity.

2. An official who enters the service of Europol after:

- leaving the service of a government administration or of a national or international organisation, or
- pursuing an activity in an employed or self-employed capacity,

shall be entitled upon establishment to have paid to the Europol fund mentioned in Article 37 either the actuarial equivalent or the flat-rate redemption value of retirement pension rights acquired by virtue of such service or activities.

In such case Europol shall, taking into account his salary scale on establishment, determine the number of years of pensionable service with which he shall be credited under its own pension scheme in respect of the former period of service, on the basis of the amount of the actuarial equivalent of sums repaid as aforesaid.

3. Paragraph 2 shall also apply to an official who is reinstated after a period of leave on personal grounds under Article 41 of the Staff Regulations.

Section 2

Severance grant

Article 10

An official aged less than 62 years whose service terminates otherwise than by reason of death or invalidity and who is not entitled to a retirement pension and cannot benefit from the provisions of Article 9(1) shall be entitled on leaving the service to payment of:

- (a) the aggregate amount deducted from his basic salary in respect of his pension contributions, plus compound interest at the rate of 3,5% per annum;
- (b) provided that his contract has not been terminated for disciplinary reasons as specified in Article 88 of the Staff Regulations, a severance grant proportionate to his actual length of service, calculated on the basis of one month for each year of service of the last basic salary before deductions. In cases covered by Article 9(2), the period of former service shall likewise be deemed to be actual service, to the extent of the number of years of pensionable service which Europol credited to him in accordance with the second subparagraph of Article 9(2);
- (c) the total sum paid to the Europol fund mentioned in Article 37, in accordance with Article 9(2), plus compound interest at the rate of 3,5% per annum.

CHAPTER 3

INVALIDITY PENSION

Article 11

Subject to the provisions of Article 1(1), an official aged less than 65 years who at any time during the period in which he is acquiring pension rights is recognised by the Invalidity Committee to be suffering from total permanent invalidity preventing him from performing the duties corresponding to a post in his salary scale, and who is obliged on these grounds to end his service with Europol shall be entitled, for so long as such incapacity persists, to invalidity pension as provided for in Article 65 of the Staff Regulations.

Invalidity pension and retirement pension shall not be paid concurrently.

Article 12

The right to receive payment of invalidity pension shall have effect from the first day of the calendar month following the official's retirement under Article 65 of the Staff Regulations.

When the former official ceases to satisfy the requirements for payment of the pension he must be reinstated in the first post corresponding to his salary scale which falls vacant in his type of post, provided that he satisfies the requirements for that post. If he declines the post offered to him, he shall retain his right to reinstatement when the next vacancy corresponding to his salary scale occurs in his type of post subject to the same proviso; if he declines a second time, he may be required to resign.

Where a former official in receipt of invalidity pension dies, entitlement to pension shall cease at the end of the calendar month during which he died.

Article 13

While a former official drawing invalidity pension is aged less than 62 years, Europol may have him medically examined periodically to ascertain that he still satisfies the requirements for payment of the pension.

In case of invalidity of an official on a fixed-term contract, the seconding national authority may on the date that the contract would have expired also have a national medical examination to determine whether the official can be deemed suitable for reintegration into that authority.

If an official entitled to a Europol invalidity pension is receiving an invalidity pension from a separate national scheme for employees or is receiving professional income, the Europol invalidity pension will be reduced so that the total amount of net income received does not exceed the maximum permissible entitlements under Article 65(1) of the Staff Regulations.

Article 14

Where a former official who has been drawing invalidity pension is reinstated in Europol, the time during which he received invalidity pension shall be included for the purpose of calculating his retirement pension, without payment by him of arrears of contributions.

CHAPTER 4

SURVIVOR'S PENSION

Article 15

Where an official dies while in the active service of Europol or on personal leave in accordance with the Staff Regulations, his widow shall be entitled, provided that she has been married to him for at least one year at the time of his death and subject to the provisions of Articles 1(1) and 21, to a widow's pension equal to 60% of the retirement pension which the official would have been paid if he had qualified, irrespective of length of service or of age, for such pension at the time of death.

The duration of the marriage shall not be taken into account if there are one or more children of the marriage or of a previous marriage of the official provided that the widow maintains or has maintained those children, or if the official's death resulted either from physical disability or sickness contracted in the performance of his duties or from accident.

Article 16

Where a former official was in receipt of retirement pension his widow shall be entitled, provided that she had been married to him for at least one year when he left the service of Europol, and subject to the provisions of Article 21, to a widow's pension equal to 60% of the retirement pension which he was receiving at the time of his death. The minimum widow's pension shall be 35% of the last basic salary; the amount of the widow's pension shall in no case, however, exceed the amount of the retirement pension which her husband was receiving at the time of his death.

The duration of the marriage shall not be taken into account if there are one or more children of a marriage contracted by the official before he left the service, provided that the widow maintains or has maintained those children.

Article 17

The widow of a former official who left the service before reaching the age of 62 years and requested that his retirement pension be deferred until the first day of the calendar month following that during which he reached the age of 62 years shall be entitled, provided that she has been married to him for at least one year when he left the service of Europol, and subject to the provisions of Article 21, to a widow's pension equal to 60% of the retirement pension which would have been payable to her husband at the age of 62 years. The minimum widow's pension shall be 35% of the last basic salary; the amount of the widow's pension shall in no case, however, exceed the amount of the retirement pension to which the official would have been entitled at the age of 62 years.

The duration of the marriage shall not be taken into account if there are one or more children of a marriage contracted by the former official before he left the service provided that the widow maintains or has maintained those children.

Article 18

Where a former official was in receipt of invalidity pension his widow shall be entitled, subject to the provisions of Article 21, provided that she was married to him when he became eligible for the pension, to a

widow's pension equal to 60 % of the invalidity pension which he was receiving at the time of his death or would have been receiving but for anti-accumulation.

If a widow is receiving a pension under a separate scheme, the Europol widow's pension will be reduced so that the total widow's pension does not exceed the maximum permissible under this Article.

The minimum widow's pension shall be 35 % of the final basic salary; the amount of the widow's pension shall in no case, however, exceed the amount of the invalidity pension which her husband was entitled to at the time of his death.

Article 19

For the purpose of Articles 15, 16 and 17, the duration of the marriage shall not be taken into account where the marriage, though contracted after termination of the official's service, has lasted at least five years.

Article 20

1. The orphan's pension provided for in the first, second and third subparagraphs of Article 69 of the Staff Regulations shall for the first orphan be equal to eight tenths of the survivor's pension to which the widow of an official or former official in receipt of a retirement or invalidity pension would have been entitled, the reductions set out in Article 23 of this Appendix being disregarded.

It shall not be less than the minimum subsistence figure, subject to the provisions of Article 21 of this Appendix.

2. The pension shall be increased, for each dependent child after the first, by an amount equal to twice the dependent child allowance.

Orphans shall be entitled to education allowance in accordance with Article 3 of Appendix 5.

3. The total amount of pension and allowance calculated in this way shall be divided equally among the orphans entitled.

Article 21

Where an official leaves a widow and also orphans of a previous marriage or other persons entitled under him, the total pension, calculated as if for a widow having all these persons dependent on her, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category of them if treated separately.

Where an official leaves orphans of different marriages, the total pension, calculated as though all the children were of the same marriage, shall be apportioned among the various persons concerned in proportion to the pensions which would have been payable to each category of them if treated separately.

For the purposes of calculating this apportionment, children of a previous marriage of either spouse, who are recognised as dependants within the meaning of Article 2 of Appendix 5 shall be included in the category of children of the marriage to the official or former official in receipt of a retirement or invalidity pension.

In the case envisaged in the second paragraph, ascendants who are recognised as being dependants as provided for in Article 2 of Appendix 5 shall be treated in the same way as dependent children and, for the purpose of calculating the apportionment, included in the category of descendants.

Article 22

The right to receive payment of survivor's pension shall have effect from the first day of the calendar month following that in which the official or former official in receipt of a retirement or invalidity pension died.

However, where the payment provided for in Article 48 of the Staff Regulations is made on the death of the official or of the person entitled to a pension, such right shall take effect on the first day of the fourth month following that in which death occurred.

The right to receive payment of survivor's pension shall cease at the end of the calendar month in which the recipient of the pensions dies or ceases to satisfy the requirements for payment of the pension.

Article 23

Where the difference in age between the deceased official or former official in receipt of a retirement or invalidity pension and his surviving spouse, less the length of time they have been married, is more than 10 years, the survivor's pension, calculated in accordance with the preceding provisions, shall be subject to a reduction, per full year of difference, amounting to:

- 1 % for between 10 and 20 years,
- 2 % for between 20 and 24 years,
- 3 % for between 25 and 29 years,
- 4 % for between 30 and 34 years,
- 5 % from 35 years.

Article 24

A widow's entitlement to survivor's pension shall cease on remarriage. She shall be entitled to immediate payment of a capital sum equal to twice the annual amount of her survivor's pension, provided that the second paragraph of Article 69 of the Staff Regulations does not apply.

Article 25

The divorced wife of an official or a former official shall be entitled to a survivor's pension, as defined in this chapter, provided that, on the death of her former husband, she can justify entitlement on her own account to receive maintenance from him by virtue of a court order or as a result of a settlement between herself and her former husband.

The survivor's pension may not, however, exceed the amount of maintenance paid at the time of her former husband's death.

The divorced wife's entitlement shall cease if she remarries before her former husband dies. The provisions of Article 24 shall apply if she remarries after her former husband dies.

Article 26

Where the deceased official leaves more than one divorced wife entitled to survivor's pension or one or more divorced wives and a widow entitled to a survivor's pension, that pension shall be divided in proportion to the respective duration of the marriages. The provisions of the second and third subparagraphs of Article 25 shall apply.

If any of the persons entitled to pension dies or renounces her share, her share shall accrue to the shares of the other persons, except where there are orphans' rights under the second paragraph of Article 69 of the Staff Regulations.

Reductions in respect of difference in age, as provided for in Article 23, shall be applied separately to pensions divided in accordance with this Article.

Article 27

Where, under Article 82 of the Staff Regulations, the divorced wife ceases to be entitled to a pension, the total pension shall be payable to the widow, provided the second paragraph of Article 69 of the Staff Regulations does not apply.

CHAPTER 5

PROVISIONAL PENSIONS

Article 28

The spouse or persons recognised as dependants of an official in active service to Europol or on personal leave in accordance with the Staff Regulations whose whereabouts are unknown for more than one year provisionally receive the survivor's pension to which they would be entitled under this Appendix.

Article 29

The spouse or persons recognised as dependants of a former official in receipt of retirement or invalidity pension whose whereabouts are unknown for more than one year may provisionally receive the survivor's pension to which they would be entitled under this Appendix.

Article 30

The provisions of Article 29 shall apply to persons recognised as a dependant of a person in receipt of or entitled to a survivor's pension whose whereabouts are unknown for more than one year.

Article 31

Provisional pensions under Articles 28, 29 and 30 shall be converted into definitive pensions when the death of the official, former official or person entitled to a survivor's pension has been duly confirmed or he has been legally declared missing, presumed dead.

CHAPTER 6

ALLOWANCES

Article 32

The provisions of the second paragraph of Article 75 of the Staff Regulations shall apply to persons in receipt of a provisional pension.

The provisions of Article 75 of the Staff Regulations shall not apply to children born more than 300 days after the death of the official or former official in receipt of a retirement or invalidity pension.

Article 33

The award of a retirement, invalidity or survivor's pension or of a provisional pension shall not entitle the pensioner to expatriation allowance, nor to the rent and education allowance. However, the survivors and the invalidated officials shall remain entitled to the rent allowance and the education allowance, but not for a longer term than they would have been entitled to such allowances under active service conditions.

CHAPTER 7

CONTRIBUTIONS AND PAYMENT OF BENEFITS

Article 34

An official on leave on personal grounds who continues to acquire further pension rights on the conditions laid down in Article 41 of the Staff Regulations shall continue to pay the contribution referred to in Article 78 of the Staff Regulations on the basis of the salary carried by his salary scale and incremental point.

All benefits to which any such official or those entitled under him may be entitled under this pension scheme shall be calculated on the basis of such salary.

Article 35

1. The budgetary authorities of Europol shall after each period of five years, after consulting one or more qualified actuaries, the Director and the Staff Committee, lay down mortality and invalidity tables and the assumed salary increases for use in calculating the actuarial values provided for in the Staff Regulations and in this Appendix.
2. A reassessment of this pension scheme will take place after five years after the entry into force of the Staff Regulations, on the basis of the abovementioned actuarial assessments, which shall include a re-appraisal of the interest rates mentioned in Articles 4, 6 and 10, and following decisions in other international organisations, notably the European Union.
3. The validity of this Appendix shall cease one year after the period mentioned in paragraph 2, and shall be renewed before that date.

Article 36

Any sums due from an official or former official in receipt of a retirement or invalidity pension to Europol at the date when a benefit is payable under this pension scheme shall be deducted from the amount of his benefit or from the benefits payable to those entitled under him. The deduction may be spread over a number of months.

Article 37

1. An independent provisional pension fund shall be established for the sole purpose of the financing and execution of the payments under this pension scheme. The employee contribution (8,25 %) and employer contribution (16,5 %) shall be deposited monthly in the fund. The means available in the fund may not be directed temporarily nor definitively to any purpose but investment for the financing and execution of the payments under this pension scheme.
2. The fund shall be managed externally.
3. The rules governing the fund shall be laid down by the Council.

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APPENDIX 7

Composition and procedure of the Staff Committee, the Invalidation Committee and the Disciplinary Board

SECTION 1

Staff Committee*Article 1*

A Staff Committee shall be set up, which shall represent the collective interests of Europol staff in their relations with the Director of Europol.

The conditions for election to the Staff Committee shall be laid down by the general assembly of the officials of Europol. Election shall be by secret ballot.

Elections to the Staff Committee shall be valid only if the majority of the officials entitled to vote take part. If this proportion is not attained, a subsequent general assembly may validly vote by the majority of those present.

The Staff Committee shall comprise a maximum of seven members, together with their alternates if any, whose term of office shall be two years. Europol may, however, decide to fix a shorter term of office, which may not be less than one year. Every official of Europol shall be entitled to vote and stand for election. The Committee shall elect a chairman.

Membership of the Staff Committee shall be such as to ensure the representation of all officials. The Director shall take steps to ensure the appropriate cooperation between the Staff Committee and representatives of local staff.

The duties undertaken by members of the Staff Committee shall be deemed to be part of their normal service in Europol. The fact of performing such duties shall in no way be prejudicial to the persons concerned.

Taking into account the real workload of his task, the Chairman of the Staff Committee could be attributed a partial working exemption by the Director.

Article 2

The Staff Committee shall meet at the request of the Director or at its own initiative.

The proceedings of the Committee shall be valid only if the majority of the members or, in their absence, their alternates are present.

The opinion of the Committee shall be communicated in writing to the Director within five days of its adoption.

Any member of the Committee may require that his views be recorded in the opinion of the Committee.

Europol shall put appropriate accommodation at the disposal of the Staff Committee.

SECTION 2

Invalidation Committee*Article 3*

The Invalidation Committee shall consist of three doctors:

- one appointed by Europol,
- one appointed by the official concerned, and
- one appointed by agreement between the first two doctors.

Should the official concerned fail to appoint a doctor, the President of the Court of Justice of the European Communities shall appoint one.

In the event of failure to agree on the appointment of a third doctor within two months of the appointment of the second doctor, the third shall be appointed by the President of the Court of Justice of the European Communities at the request of one of the parties concerned.

Article 4

Expenses incurred in connection with the proceedings of the Invalidation Committee shall be borne by Europol.

Where the doctor appointed by the official concerned is resident elsewhere than at the place where the official is employed, the official shall bear the costs of the additional fees entailed, with the exception of first-class travel expenses, which shall be refunded by Europol.

Article 5

The official may submit to the Invalidation Committee any reports or certificates from his regular doctor or from any medical practitioners whom he may have consulted.

The Invalidation Committee's conclusions shall be communicated to the Director and to the official concerned.

The proceedings of the Committee will not be made public.

SECTION 3

Disciplinary Board

Article 6

The Disciplinary Board shall consist of a Chairman and four members. They shall be assisted by a secretary.

Article 7

1. The Director shall each year appoint the Chairman of the Disciplinary Board. The Chairman shall in no circumstances also be a member of the Staff Committee.

The Director shall also draw up a list of members for the Board.

The Staff Committee shall at the same time transmit a similar list to the Director.

2. Within five days of receipt of a report initiating either disciplinary proceedings or the procedure provided for in Article 18 of the Staff Regulations, the Chairman of the Disciplinary Board shall, in presence of the official concerned, draw lots from among the names in the abovementioned lists to decide which four members shall constitute the Board, two being drawn from each list.

Members of the Disciplinary Board shall not be of a lower scale than that of the official whose case the Board is to consider. If possible, one member shall be in the same scale as the official concerned.

The Chairman shall inform each member of the composition of the Board.

3. Within five days of the formation of the Disciplinary Board, the official charged may make an objection in respect of any of its members other than the Chairman.

Within the same period any member of the Disciplinary Board may ask to be excused from serving, provided he has legitimate grounds.

The Chairman of the Disciplinary Board shall, by drawing lots, fill any vacancies arising.

Article 8

Members of the Disciplinary Board shall be completely independent in the performance of their duties.

The proceedings of the Board shall not be made public.

SECTION 4

Disciplinary proceedings*Article 9*

A report shall be submitted to the Disciplinary Board by the Director, stating clearly the facts complained of and, where appropriate, the circumstances in which they arose.

The report shall be communicated to the Chairman of the Disciplinary Board, who shall bring it to the attention of the members of the Board and of the official charged.

Article 10

On receipt of the report, the official charged shall have the right to see his complete personal file and to take copies of all documents relevant to the proceedings.

Article 11

At the first meeting of the Disciplinary Board the Chairman shall appoint one of its members to prepare a general report on the matter.

Article 12

The official charged shall have not less than 15 days from the date of receipt of the report initiating disciplinary proceedings to prepare his defence.

When the official appears before the Disciplinary Board he shall have the right to submit observations in writing or orally, to call witnesses and to be assisted in his defence by a person of his own choice.

Article 13

Europol shall likewise have the right to call witnesses.

Article 14

If the Disciplinary Board requires further information concerning the facts complained of or the circumstances in which they arose, it may order an inquiry in which each side can submit its case and reply to the case of the other side.

The inquiry shall be conducted by the rapporteur. For the purpose of inquiry, the Board may call for any documents relating to the matter before it.

Article 15

After consideration of the documents submitted and having regard to any statements made orally or in writing by the official concerned and by witnesses, and also to the results of any inquiry undertaken, the Disciplinary Board shall, by majority vote, deliver a reasoned opinion of the disciplinary measure appropriate to the facts complained of and transmit the opinion to the Director and to the official concerned within one month of the date on which the matter was referred to the Board. The time-limit shall be three months where an inquiry has been held on the instructions of the Board.

In the event of criminal proceedings, the Disciplinary Board may decide not to deliver its opinion until after the court has given its decision.

The Director shall take his decision within one month; he shall first hear the official concerned.

Article 16

The Chairman of the Disciplinary Board shall not vote on matters before the Board save on procedural questions or in case of equality of votes.

He shall ensure that the decisions of the Board are implemented and shall bring all relevant information and documents to the attention of each of its members.

Article 17

The secretary shall keep minutes of meetings of the Disciplinary Board.

Witnesses shall sign the minute recording their depositions.

The reasoned opinion provided for in Article 15 shall be signed by all members of the Disciplinary Board.

Article 18

Costs incurred on the initiative of an official in the course of disciplinary proceedings, in particular fees to a person chosen for his defence, shall be borne by the official where the disciplinary proceedings result in any of the measures provided for under Article 88(2)(c) to (f) of the Staff Regulations.

Article 19

Where there are new facts which are supported by relevant evidence, disciplinary proceedings may be reopened by the Director on his own initiative or at the request of the official concerned.

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*APPENDIX 8***Taxes***Article 1*

The tax on salaries, wages and emoluments paid by Europol to its staff, indicated by Article 10 of the Protocol on the Privileges and Immunities of Europol, shall be determined under the conditions and collected according to the procedure laid down in this Appendix.

Article 2

The following shall be liable to the tax:

- (a) persons coming under Article 10(2) of the Protocol on Privileges and Immunities, but excluding local staff;
- (b) recipients of the compensation on termination of service provided for in Article 77 of the Staff Regulations;
- (c) those entitled to unemployment benefit under Article 59 of the Staff Regulations.

Article 3

1. The tax shall be payable each month on salaries, wages and emoluments paid by Europol to each person liable.

2. However, moneys and allowances, whether lump sums or not, which represent compensation for expenses incurred in the performance of official duties, shall be excluded from the basic taxable amount.

3. The family allowances and social benefits listed below shall be deducted from the basic taxable amount:

- (a) household allowance;
- (b) dependent child's allowance;
- (c) education allowance;
- (d) allowance on the birth of a child;
- (e) housing allowance;
- (f) social assistance;
- (g) allowances paid on account of occupational disease or accident;
- (h) that part of any payment which represents family allowances.

4. An abatement of 10 % for occupational and personal expenses shall be made from the amount obtained by applying the preceding provisions.

An additional abatement equivalent to twice the amount of the allowance for a dependent child shall be made for each dependent child of the person liable as well as for each person treated as a dependent child within the meaning of Article 2(4) of Appendix 5.

5. Deductions from remuneration of persons liable on account of pensions and retirement allowances or of social security shall be made from the basic taxable amount.

Article 4

The tax shall be calculated on the taxable amount obtained by applying Article 3 and disregarding any amount not exceeding NLG 183 and by applying the rate of:

8 %	to amounts between	NLG 184 and NLG 3 241
10 %	to amounts between	NLG 3 242 and NLG 4 464
12,50 %	to amounts between	NLG 4 465 and NLG 5 116
15 %	to amounts between	NLG 5 117 and NLG 5 811
17,50 %	to amounts between	NLG 5 811 and NLG 6 462
20 %	to amounts between	NLG 6 463 and NLG 7 094
22,50 %	to amounts between	NLG 7 095 and NLG 7 746
25 %	to amounts between	NLG 7 747 and NLG 8 378
27,50 %	to amounts between	NLG 8 379 and NLG 9 030
30 %	to amounts between	NLG 9 031 and NLG 9 662
32,50 %	to amounts between	NLG 9 663 and NLG 10 314
35 %	to amounts between	NLG 10 315 and NLG 10 947
40 %	to amounts between	NLG 10 948 and NLG 11 599
45 %	to amounts above	NLG 11 599.

Article 5

1. By way of derogation from the provisions of Articles 3 and 4:
 - (a) the sums paid as compensation for overtime shall be assessed for purposes of the tax at the rate which, in the month preceding that of payment, was applied to the highest taxable amount of the official's remuneration;
 - (b) payments made on account of termination of service shall be taxed, after applying the abatements laid down in Article 3(4), at a rate equal to two thirds of the ratio existing at the time of last salary payment, between:
 - the amount of tax payable, and
 - the basic taxable amount as defined in Article 3.
2. The application of this Appendix shall not have the effect of reducing salaries, wages and emoluments of any kind paid by Europol to an amount less than the minimum subsistence rate as defined in Article 5 of Appendix 6.

Article 6

When the taxable payment covers a period of less than one month, the rate of the tax shall be that which is applicable to the corresponding monthly payment.

When the taxable payment covers a period of more than one month the tax shall be calculated as if this payment had been spread evenly over the months to which it relates.

Corrective payments not related to the month during which they are paid shall be subject to the tax to which they would have been subject had they been made at the proper time.

Article 7

Tax shall be collected by means of deduction at source. The amount shall be rounded off at the lower unit.

Article 8

The tax proceeds shall be entered as revenue in the Europol budget.

Article 9

The Council, acting on a proposal from the Management Board, shall adopt any provisions necessary for the application of this Appendix.

ACT OF THE MANAGEMENT BOARD OF EUROPOL**of 1 October 1998****laying down its rules of procedure**

(1999/C 26/08)

THE MANAGEMENT BOARD,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 28(7) thereof,

Whereas it is for the Management Board, acting unanimously, to lay down its rules of procedure,

HAS ADOPTED THESE RULES OF PROCEDURE:

*Article 1***Composition of the Management Board**

1. In accordance with Article 28(2) and (3) of the Europol Convention, full or alternate members of the Management Board, (hereinafter referred to as 'members'), shall enjoy the requisite authority in the areas in which the Management Board has competence.

2. At Management Board meetings, members, the Director of Europol and the representative of the Commission of the European Communities (hereinafter referred to as 'the Commission') may be accompanied and advised by experts, the maximum number of which shall be laid down by the chairman of the Management Board.

3. Each Member State shall notify the Director of Europol and the Secretary of the Management Board of a member's appointment and cessation of duties.

*Article 2***Administrative support for the Management Board**

1. The Management Board shall enjoy the administrative support necessary for it to carry out its duties. Such support shall be provided by Europol. To guarantee its efficient operation, the Management Board shall appoint a Secretary from among the staff of Europol, who is not part of its management team and

who fulfils the requirements laid down by the Board, in accordance with the following criteria:

- (a) ability to perform the duties involved;
- (b) administrative level to be laid down by the Management Board;
- (c) availability to fulfil the duties required.

The Secretary shall carry out duties as instructed by the Management Board and shall be responsible to it for their fulfilment. However, with the approval of the Management Board and under its authority, the Secretary may carry out other duties.

The duration of the Secretary's service shall be decided by the Management Board, which may revoke or renew the appointment.

2. Each new Presidency shall oversee the documentation of the Management Board, drawing up for that purpose a document which it shall submit to the Board for approval at the first ordinary meeting.

*Article 3***Chairman of the Management Board**

The Chairman of the Management Board shall draw up the provisional agenda for meetings and shall chair them.

*Article 4***Proceedings of the Management Board**

1. The Management Board shall hold at least one ordinary meeting during each Presidency, convened by its Chairman.

2. When the Chairman considers that circumstances so dictate, he/she may call a meeting of the Management Board, either on his/her own initiative or on that of a third of the members. Should a meeting be requested by a Member State, by the Commission or by the Director of Europol, the Chairman shall consult the other members and, if a third of them agree, shall call a meeting.

In the cases mentioned in the previous paragraph, the Chairman must convene the meeting within 30 days of receiving the request.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

3. The Management Board may call persons particularly qualified in the matters to be examined to speak on a particular agenda item.

4. On matters for which the Management Board does not consider a plenary meeting necessary, it may appoint an *ad hoc* committee or committees with as many members as it considers necessary to perform the tasks involved. Such committee(s) shall be chaired by the Chairman of the Management Board and shall be dissolved upon completion of the tasks for which it was/they were set up.

Article 5

Agenda

1. The Chairman of the Management Board shall draw up the provisional agenda for each meeting. It shall be sent by the Secretary to the other members, the Commission and the Director of Europol at least 14 days before the beginning of the meeting. Where an extraordinary meeting is called, the agenda shall be forwarded during the week prior to the meeting.

2. The provisional agenda shall contain the items requested by a member, the Commission or the Director of Europol, provided that the relevant documents arrived at Europol headquarters at least 16 days before the start of that meeting.

3. Only items for which the relevant documents have been forwarded to the members, the Commission and the Director of Europol no later than the date on which the agenda is sent out may be included on the provisional agenda.

4. At the beginning of the meeting the Management Board shall adopt the agenda by simple majority.

Article 6

Deliberations of the Management Board

1. The presence of three-quarters of the Board's members shall constitute a quorum. In the absence of a quorum, the Chairman shall terminate the meeting and convene another as soon as possible. Two-thirds of the members of the Management Board shall constitute a quorum for the second meeting.

2. The Chairman shall conduct the meeting, giving priority to members wishing to raise a question of procedure or a preliminary matter.

3. Other than by a unanimous decision of the Management Board on grounds of urgency, the Board shall take decisions only on the basis of documents and drafts drawn up in the official languages of the European Union.

Article 7

Voting at Management Board meetings

1. The Management Board shall proceed to a vote on the initiative of its Chairman, who shall also be required to put a matter to the vote at the request of any of the members, provided a majority of the members agree.

2. A vote may be delegated only to the alternate member representing the relevant State.

3. The distribution of votes shall be indicated for each decision which the Management Board adopts. The decision shall be accompanied by a note setting out the opinions of the minority should the minority so request. Votes shall be cast by a show of hands or by roll call if the result of a show of hands is disputed.

4. Votes on decisions and appointments shall be by secret ballot at the request of one of the members or if the Chairman so decides. When a secret ballot takes place, the Chairman, assisted by two other members of the Management Board, shall count the votes and immediately announce the results. The Chairman may permit any member to give a brief account of the reason for his/her vote.

Article 8

Adoption of agreements

1. Agreements which come before the Management Board and for which the Europol Convention or its implementing rules do not require unanimity or a two-thirds qualified majority may be approved by simple majority.

Decisions or agreements adopted by the Management Board shall record the distribution of the votes cast, unless the vote was secret in accordance with Article 7.

2. The setting up of *ad hoc* committees by the Management Board shall require the agreement of two-thirds of the members present.

3. Motions to submit or not to submit a matter to the Management Board for its approval shall be subject to a vote before the substance of the matter is examined.

4. Motions relating to several matters must be subdivided when so requested.

5. Where several motions relate to the same matter, the broadest one shall be voted on first. In the case of amendments, the amendment which most extensively alters the basic text shall be voted on first. In the case of an amendment to an amendment, the most extensive shall be voted on first. The final vote shall be cast on the version of the text resulting from the previous votes.

Article 9

Minutes of the meetings

1. Minutes of each meeting of the Management Board shall be drawn up, and shall include:

- a list of those present,
- a report on the discussions,
- decisions adopted by the Management Board with an indication of the distribution of votes for each vote held.

2. The Management Board shall approve the minutes at its next meeting.

The draft minutes shall be submitted for the approval of the Management Board only if the draft text has been sent to the members at least four weeks before the next meeting. The draft minutes shall also be sent to the Director of Europol and to the Commission representative in respect of meetings at which he/she was present. Minutes of meetings at which the Commission representative was not present shall be sent to the latter if the Management Board so decides.

3. If the draft has not been sent in due time, approval shall be postponed until the following meeting of the Management Board.

Where there is a very long interval between two meetings of the Management Board, the members of the Board may make their comments or signify their agreement by written procedure.

4. Proposals for amendments to the draft minutes shall be submitted in writing to the chairman no later than two hours before the beginning of the meeting at which the minutes are to be approved.

5. Once approved, the minutes shall be signed by the Chairman of the Management Board and by the Secretary.

Article 10

Annual report

1. The annual report on the activities of Europol shall be unanimously approved by the Management Board during the first half of the following calendar year.

During the previous six months the Management Board shall approve the report on Europol's future activities referred to in Article 28(10) of the Europol Convention.

Both reports shall be drawn up by the Europol Directorate in sufficient time to comply with the time limits laid down in the previous paragraphs.

2. The report shall contain the following sections:

- A. Introduction.
- B. Extent to which objectives have been met during the year.
 - Activities carried out.
 - Budgetary costs.
 - Human and technical resources needed.
- C. Study of future objectives.
 - Short-term costs.
 - Medium-term costs.
- D. Conclusions.

3. In accordance with Article 34 of the Europol Convention, the Management Board shall approve within the first quarter of each year a special annual report including a summary of sections A and B referred to in paragraph 2, which shall be forwarded by the Council Presidency to the European Parliament.

Article 11

Correspondence

Correspondence addressed to the Management Board shall be forwarded to the headquarters of Europol for the attention of the Chairman of the Management Board. Such correspondence shall be dealt with by the Secretary.

Article 12

Management Board expenses

1. Europol shall meet the travel expenses of members of the Management Board and up to two experts per Member State attending meetings. Each Member State

shall pay for the accommodation expenses of its members and experts. The expenses of other experts shall be met by the Member States.

2. In accordance with Article 4(3) of these rules of procedure, the expenses of experts invited to advise the Management Board shall be met by Europol.

Article 13

Entry into force of the rules of procedure

These rules shall enter into force on the day following their approval by the Management Board.

Article 14

Revision of the rules of procedure

If these rules are revised, the Secretary shall forward the updated version to all members, to the Director of Europol and to the Commission. The new rules shall enter into force on the day following their approval.

Done at The Hague, 1 October 1998.

For the Management Board

The Chairman

K. RUSO

ACT OF THE MANAGEMENT BOARD OF EUROPOL**of 15 October 1998****concerning the rights and obligations of liaison officers**

(1999/C 26/09)

THE MANAGEMENT BOARD,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 5(7) and Article 28(1)(2) thereof,

Whereas it is for the Management Board of Europol, acting unanimously, to adopt the rights and obligations of liaison officers in relation to Europol, without prejudice to the other provisions of the Europol Convention,

- (a) they shall, under the national law of the appointing Member State, be officials of the services responsible for preventing and combating criminal offences within Europol's sphere of competence in accordance with Article 2 of the Europol Convention;
- (b) they shall know at least two of the official languages of the European Union;
- (c) they shall meet the conditions of aptitude and ability required to carry out their duties.

Article 4

HAS ADOPTED THE FOLLOWING RULES:

Relations between liaison officers*Article 1***Purpose**

This act is adopted pursuant to Article 5 of the Europol Convention on the rights and obligations of liaison officers accredited to Europol.

Within the framework laid down in Article 5 of the Europol Convention, liaison officers shall cooperate actively among themselves in exchanging information and shall provide the necessary support and assistance.

*Article 5**Article 2***General Provisions**

The liaison officers seconded to Europol shall be appointed by each Member State. The Director of Europol shall be informed of such appointments and shall submit a list of them to the Management Board.

Obligations of Europol towards liaison officers

1. Europol shall support liaison officers in the execution of their duties. The Director of Europol shall take the necessary organisational measures to:

- (a) ensure that liaison officers' activities are efficient;
- (b) deal with their requests and give them the necessary assistance;
- (c) settle matters arising from the normal exercise of the duties assigned to them.

*Article 3***Requirements**

In order to be able to carry out their duties in Europol, Member States' liaison officers shall meet at least the following requirements, with each Member State assessing whether they have been fully met:

2. Liaison officers shall be informed by Europol of activities which may concern them and other circumstances which may be of interest to them or to the Member State which appointed them, whether the information originates from Europol itself, from the liaison officers of other Member States, from third bodies or from third States.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

*Article 6***Obligations of liaison officers towards Europol**

1. Liaison officers, in close cooperation with Europol staff, shall endeavour to achieve Europol's aims and objectives.
2. Liaison officers shall comply with Europol's internal rules without prejudice to their national laws.
3. In performing their duties, liaison officers shall be subject to their own national laws on data protection, except as otherwise stipulated in specific provisions of the Europol Convention.

*Article 7***Obligation to inform Europol**

If permitted by the law of their State of origin, liaison officers shall, as far as possible, keep the Director of Europol informed of the activities carried out by them within Europol, and in particular:

- (a) keep the Director informed primarily of matters exceeding the framework of bilateral exchanges between Member States which may have an impact on Europol;
- (b) respond to any request for additional information made by Europol;
- (c) provide a brief monthly statistical report on all their activities.

*Article 8***Liability in respect of Europol**

The extent of the seconding Member State's liability in the event of damage caused to Europol by its liaison officers shall be determined in accordance with the national law of that State.

*Article 9***Availability with regard to Europol**

In order to ensure the attainment of Europol's objectives and the efficient operation of its functions as laid down in Articles 2 and 3 of the Europol Convention, and so that liaison officers may discharge the duties assigned to them under Article 5 of the Europol Convention, each

Member State, acting in accordance with its national regulations, shall lay down the general rules governing its liaison officers' working hours and a system ensuring their availability, which, without necessarily requiring their physical presence at Europol, will guarantee the continuity of the service. The Director of Europol shall be duly notified of such measures.

*Article 10***Leave**

1. Liaison officers shall remain under the responsibility of the authorities seconding them and shall remain subject to national rules.
2. Annual leave and other leave arrangements shall be a matter for the seconding authority and the liaison officer.
3. Liaison officers shall notify the Director of Europol as early as possible of the leave they intend applying for.
4. The Director of Europol may object to any request for leave which may conflict with the organisation's interests. The decision shall be taken by the Member State which seconded the liaison officer in question after hearing the Director's objections.

*Article 11***Public holidays**

1. Liaison officers shall be subject to their national regulations as regards the number of public holidays they are entitled to each year.
2. As far as possible, liaison officers shall comply with the list of public holidays laid down by the Director of Europol in agreement with the Management Board, as well as observing their own national day.
3. Each liaison officer's public holiday arrangements shall be communicated by each National Unit to the Director of Europol in sufficient time to enable the latter to plan the organisation's activities.

*Article 12***Other absences**

In the case of absence for reasons other than those laid down in Articles 10 and 11, which prevent them from

attending their place of work, liaison officers must inform the Director of Europol of their unavailability as soon as possible, stating the reason for their absence and giving details of how they can be contacted.

Article 13

Amendments

Any amendments to this act shall be adopted unanimously by the Management Board.

Article 14

Entry into force

This act shall enter into force on the day following its adoption by the Management Board.

Done at The Hague, 15 October 1998.

For the Management Board

The Chairman

K. RUSO

ACT OF THE MANAGEMENT BOARD OF EUROPOL

of 15 October 1998

laying down the rules governing Europol's external relations with European Union-related bodies

(1999/C 26/10)

THE MANAGEMENT BOARD,

Having regard to the Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention)⁽¹⁾, and in particular Article 42(1) thereof,

Whereas it is for the Management Board, acting unanimously, to lay down the rules governing Europol's external relations with European Union-related bodies,

HAS ADOPTED THE FOLLOWING RULES:

*Article 1***Definitions**

For the purpose of these rules:

- (a) 'European Union-related bodies' means the bodies referred to in Article 10(4)(1), (2) and (3) of the Europol Convention;
- (b) 'agreement' means an agreement concluded for the purpose of achieving the objectives referred to in Article 2 of the Europol Convention.

*Article 2***Agreements**

1. Europol may conclude agreements with European Union-related bodies.
2. The Management Board may determine the European Union-related bodies with which agreements are to be negotiated.
3. The Director of Europol shall, after authorisation by the Management Board, enter into negotiations on such agreements. Such an agreement may only be concluded after approval by the Management Board.

⁽¹⁾ OJ C 316, 27.11.1995, p. 1.

*Article 3***Liaison officers**

An agreement is essential for the secondment of liaison officers of Europol to European Union-related bodies and for the secondment to Europol of liaison officers from European Union-related bodies. Such an agreement shall stipulate the conditions for secondment and the functions allocated to liaison officers.

*Article 4***The reception of high-level officials**

The Director of Europol shall regularly report to the Management Board on visits to Europol of high-level officials from European Union-related bodies.

*Article 5***Regular meetings**

1. The Director of Europol may, with the approval of the Management Board, establish regular meetings with European Union-related bodies.
2. Where an Agreement provides for regular meetings, the approval of the Management Board is no longer necessary.

*Article 6***Provision of information to the Management Board**

The Director of Europol shall regularly report to the Management Board on Europol's external relations with European Union-related bodies.

*Article 7***Exchange of information**

1. These rules shall be without prejudice to the rules concerning the transmission of personal data by Europol to third States and third bodies, the rules on the confidentiality of Europol's information and the rules concerning the receipt of information by Europol from third parties.

2. (a) For the purpose of fulfilling the objectives set out in Article 2 of the Europol Convention, Europol may transmit non-personal data subject to the basic protection level as set out in Article 8(1) of the rules on the confidentiality of Europol's information, if:

- an agreement has been concluded for this purpose under the conditions laid down in Article 2,
- in the case of particular data, the Director of Europol considers that the protection of such data is guaranteed by the European Union-related body.

(b) For the transmission of non-personal data classified as Europol level 1, 2 or 3, an agreement

is necessary. This agreement shall take into account the provisions of the rules on the confidentiality of Europol's information.

Article 8

Entry into force

These rules shall enter into force on 1 January 1999.

Done at The Hague, 15 October 1998.

For the Management Board

The Chairman

K. RUSO
