

When information protectively marked at different levels is gathered, the classification 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.'

4. Article 8(5) shall be replaced by the following:

'5. The security packages shall consist of various measures of a technical, organisational or administrative nature, as laid down in the Security Manual.'

5. Article 9(2) shall be replaced by the following:

'2. In choosing any classification level, Member States shall take account of the classification of the information under their national regulations, the need for the operational flexibility required for Europol to function adequately and the requirement that classification of law enforcement information should be the exception and

that, if such information has to be classified, the lowest possible level should be assigned.'

6. In Article 11(3) the terms 'level 1 or 2' shall be replaced by 'Europol Restricted level or Europol Confidential level';

7. Throughout the text, the words 'security level' or 'security levels' shall be replaced by the words 'classification level' or 'classification levels' respectively.

Article 2

This Act shall enter into force on 1 July 2003.

Article 3

This Act shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 5 June 2003.

For the Council

The President

M. CHRISOCHOÏDIS

COUNCIL ACT

of 5 June 2003

amending the Staff Regulations applicable to Europol employees

(2003/C 152/02)

THE COUNCIL OF THE EUROPEAN UNION,

Whereas:

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

(1) The Staff Regulations applicable to Europol employees, as laid down in Council Act of 3 December 1998⁽⁴⁾, should be amended in particular in order to establish special provisions for Europol officials serving in third countries, on account of special living conditions there.

Having regard to the initiative of the Kingdom of Denmark⁽²⁾,

(2) It is for the Council, acting unanimously, to lay down detailed arrangements applicable to Europol employees,

Having regard to the Opinion of the European Parliament⁽³⁾,

HAS ADOPTED THIS ACT:

Having regard to the opinion of the Management Board of Europol,

Article 1

The Staff Regulations applicable to Europol employees are amended as follows:

⁽¹⁾ OJ C 316, 27.11.1995, p. 2. Convention as last amended by the Protocol of 28 November 2002 (OJ C 312, 16.12.2002, p. 2).

⁽²⁾ OJ C 286, 22.11.2002, p. 20.

⁽³⁾ Opinion of 9 April 2003 (not yet published in the Official Journal).

⁽⁴⁾ OJ C 26, 30.1.1999, p. 23. Act as last amended by the Council Act of 19 December 2002 (OJ C 24, 31.1.2003, p. 1).

1. Article 43 shall be replaced by the following:

'Article 43

1. The remuneration of Europol staff shall comprise basic salary, family allowances and, if appropriate, other allowances. It shall be paid in euro in the Netherlands.

2. Notwithstanding paragraph 1, the official, who is transferred by a decision of the Director to a place of employment other than the Netherlands, may choose to have his salary paid in the currency of the country where he performs his duties. In that case, the remuneration, excluding any education allowances pursuant to the first subparagraph of Article 3(1), and Article 3(2) of Appendix 5, shall be weighted, after the compulsory deductions set out in these Staff Regulations or in any implementing regulations, and shall be calculated on the basis of the corresponding exchange rate. In duly substantiated exceptional cases, the Director may make all or part of this payment in a currency other than that of the country of employment in such a way as to maintain purchasing power.

3. The weighting applicable shall be calculated at a rate above, below or equal to 100 %, as decided by the Director, reflecting the most recent weightings adopted by the Council pursuant to Article 64 of the Staff Regulations applicable to officials and other servants of the European Communities compared to the weighting applicable in the Netherlands, as they may be amended. The Director shall promptly inform the Management Board of Europol of any decision taken under this paragraph. Where however, in the case of a given country, the variation in the cost of living measured on the basis of the weighting and the corresponding exchange rate is found to have exceeded 5 % since the last adjustment, the Director shall decide on interim measures for adjusting the weighting and shall inform the Management Board thereof as soon as possible.'

2. The following Title shall be inserted:

'TITEL III A

OFFICIALS SERVING IN A THIRD COUNTRY

Article 100a

Without prejudice to the other provisions of the Staff Regulations, Appendix 9 lays down the special and exceptional provisions applicable to officials serving in a third country.'

3. Article 7(4) of Appendix 5 shall be replaced by the following:

'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 origin is 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 once, in each calendar year, subject to 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.

This shall also apply to officials whose place of employment is outside the territory of a Member State of the European Union, but in such cases the Director may decide, by special reasoned decision, that the official shall be entitled to repayment in accordance with subparagraphs 1 and 2 a second time within the same calendar year.;

4. The following section shall be added to Section 3 in Appendix 5:

'G. Resettlement allowance

Article 17

1. A resettlement allowance equal to one month's basic salary for an official who is entitled to the household allowance or to a half month's basic salary in other cases, shall be paid to an official who is obliged to change his place of residence for reasons related to a decision of the Director to transfer the official to another place of employment.

In cases where a husband and wife who are officials of Europol are both entitled to the resettlement allowance, this shall be payable only to the person whose basic salary is the higher.

The resettlement allowance shall be weighted at the rate fixed for the place where the official is employed.

2. The resettlement allowance shall be calculated by reference to the official's marital status and salary on the day of his transfer to a new place of employment.

3. If the official so requests, fifty percent of the resettlement allowance shall be paid in advance. The remaining fifty percent shall be paid on production of documents establishing that the official, and his family, if he is entitled to the household allowance, has settled at the place where he will be employed.

4. Notwithstanding paragraph 2, an official who is entitled to the household allowance and does not settle with his family at the place where he is employed shall receive only half the allowance to which he would otherwise be entitled. The second half shall be paid when his family settles at the place where he is employed, provided that it does so within the period of one year of the date of his transfer. Where the official is transferred to the place where his family resides before his family has settled at the place where he is employed, he shall not thereby be entitled to a resettlement allowance.;

5. The following Appendix shall be added:

'APPENDIX 9

Special and exceptional provisions applicable to officials serving in a third country

SECTION 1

General provisions

Article 1

This Appendix lays down the special and exceptional provisions applicable to officials of Europol serving in a third country.

Article 2

By decision of the Director, in the interests of the service, officials with their consent may be transferred to serve in a third country.

A transfer may not be for longer than the duration of the official's contract.

Article 3

In order to allow retraining periods of limited duration, the Director may decide to assign an official serving in a third country to a temporary post at the Europol headquarters. Such assignments may not be for longer than the duration of the official's contract. The Director may decide, on the basis of general implementing provisions that the official shall remain subject to certain provisions of this Appendix for the duration of this temporary assignment, excluding Articles 5, 8 and 9.

SECTION 2

Obligations

Article 4

An official shall carry out his duties at the place to which he is transferred in the interests of the service.

Article 5

If Europol provides the official with accommodation, which corresponds to the composition of his dependent family, he shall be required to reside in it.

SECTION 3

Working conditions

Article 6

An official shall, per calendar year, be entitled to annual leave of three working days for each month of service.

Article 7

1. In the year in which an official takes up or ceases to perform his duties in a third country, he shall be entitled to three working days leave for each complete month of service, to three working days for an incomplete month consisting of more than 15 days and to one and a half working days for an incomplete month of 15 days or less.

2. Where an official, for reasons other than the requirements of the service, has not used up 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 15 working days.

SECTION 4

Emoluments and family allowances

Article 8

1. An allowance for living conditions shall be fixed, according to the official's place of employment, as a percentage of a reference amount. This reference amount shall comprise the total basic salary, plus the expatriation allowance, household allowance and dependent child allowance, less the compulsory deductions referred to in the Staff Regulations or in the regulations adopted to implement them.

Where an official is employed in a country in which living conditions can be deemed equivalent to those normally obtaining in the European Union, no such allowance shall be payable.

The allowance for living conditions shall be fixed as follows:

The parameters taken into account for fixing the allowance for living conditions shall be the following:

- health and hospital environment,
- security,
- climate,

to which a weighting of 1 shall be applied:

- degree of isolation,
- other local conditions,

to which a weighting of 0,5 shall be applied.

Each parameter shall have the following value:

- 0: where conditions are normal but not equivalent to those normally obtaining in the European Union;
- 2: where conditions are difficult compared with those normally obtaining in the European Union;
- 4: where conditions are very difficult compared with those normally obtaining in the European Union.

The allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph, in accordance with the following scale:

- 10 % where the value equals 0,
- 15 % where the value is greater than 0 but not greater than 2,
- 20 % where the value is greater than 2 but not greater than 5,
- 25 % where the value is greater than 5 but not greater than 7,
- 30 % where the value is greater than 7 but not greater than 9,
- 35 % where the value is greater than 9 but not greater than 11,
- 40 % where the value is greater than 11.

The allowance for living conditions fixed for each place of employment shall be reviewed and, where appropriate, adjusted each year by the Director after the opinion of the Staff Committee has been obtained.

2. If living conditions at the place of employment are such as to put the official at personal risk, a temporary additional allowance shall be paid to him by special reasoned decision of the Director. This allowance shall be fixed as a percentage of the reference amount referred to in the first subparagraph of paragraph 1:

- at 5 % where the authority advises its staff not to settle their families in the place of employment,
- at 10 % where the authority decides to reduce temporarily the number of staff serving in the place of employment.

Article 9

1. If actual educational costs incurred by an official for a dependent child who is in regular full-time attendance at an educational establishment for primary or secondary education in the country of employment, exceed the maximum educational allowance pursuant to Article 3 of

Appendix 5, the official is entitled to receive a further additional allowance to cover the actual educational costs up to a maximum of twice the maximum educational allowance pursuant to Article 3 of Appendix 5.

2. If the child is in regular full-time attendance at an educational establishment for tertiary education, the education allowance shall be 150 % of the amount mentioned in the second subparagraph of Article 3(1), of Appendix 5.

3. The payment of the allowance shall be made on production of supporting documents.

Article 10

1. Reimbursements due to officials shall be paid in either euros or the currency of the country of employment, on the basis of a reasoned request from the official.

2. Officials may opt to have the resettlement allowance paid in either euros or the currency of the country of employment. In the latter case, it shall be subject to the Europol weighting fixed for the place of employment and converted at the corresponding exchange rate.

SECTION 5

Rules relating to the reimbursement of expenses

Article 11

1. An official provided with accommodation pursuant to Article 5 and 13 and who, for reasons beyond his control, is obliged to change his residence at the place of employment shall, by special reasoned decision of the Director, be reimbursed the expenses incurred in respect of removal of furniture and personal effects, on production of supporting documents and in accordance with the rules on removals.

2. In such cases, he shall have his actual resettlement expenses reimbursed on production of supporting documents, subject to a ceiling equal to the resettlement allowance as mentioned in Article 17 of Appendix 5.

Article 12

1. An official who, at his place of employment, is staying at a hotel because the accommodation provided for in Article 5 cannot yet be allocated to him or is no longer available to him or who, for reasons beyond his control, has not been able to take possession of his accommodation, shall be reimbursed the hotel expenses of himself and his family on production of the hotel bills, after prior authorisation by the Director.

The official shall also receive half of the daily subsistence allowance provided for in Article 9 of Appendix 5, except where the Director takes a special decision that there is a case of "*force majeure*".

2. Where hotel accommodation cannot be provided, the official shall be entitled to reimbursement of the actual cost of renting temporary accommodation, after prior authorisation by the Director.

Article 13

Where Europol does not provide the official with accommodation, his rent shall be reimbursed, provided that the accommodation corresponds to the level of his duties and to the composition of his dependent family. The reasonable maximum rent costs for the place where the official is employed will be laid down by the Director of Europol reflecting the maximum rent costs applicable to officials and other servants of the European Communities who hold similar positions in the same place of employment.

Article 14

In the event of termination of service, or death, Europol shall, subject to conditions laid down by the Director, bear the actual cost of moving an official's furniture and personal effects from their location at the time to his place of origin or of transporting his furniture and personal effects from the place of employment to his place of origin.

Article 15

An official who does not have access to a service car for official business directly connected with the performance of his duties shall receive a mileage allowance for the use of his own car. The Director shall fix the amount of the allowance.

SECTION 6

Social security benefits

Article 16

The official, his spouse, his children and other persons dependent on the official shall be insured for repatriation on health grounds in the case of an emergency or extreme emergency; the premium shall be paid entirely by Europol.

Article 17

1. The spouse, children and other persons dependent on the official shall be insured against accidents occurring outside the European Union.

2. The official, the spouse, children and other persons dependent on the official shall be insured against liability

for material damage and physical injuries inflicted on third parties, occurring outside the European Union.

3. Half the premiums for the insurance under this Article shall be paid by the official and half by Europol.

SECTION 7

Education allowance for officials returning from a transfer

Article 18

1. The director may decide, by special reasoned decision, that an official returning from serving in a third country, not in receipt of an expatriation allowance in the Netherlands, shall be entitled to receive the education allowance specified in Article 3 of Appendix 5, in order to enable a dependent child whose education in the third country was in a language other than the child's mother tongue, to continue his or her education in the Netherlands in the language in which the child received education in the third country.

2. The right to receive the education allowance referred to in paragraph 1 shall apply for a maximum period of six years from the date of transfer but in any case no longer than the duration of the contract of the official.

3. The official shall submit an application for the benefits under this Article within one year after returning from serving in a third country.'

Article 2

This Act shall enter into force on the day following its adoption.

Article 3

This Act shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 5 June 2003.

For the Council

The President

M. CHRISOCHOÏDIS