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**DECISION OF THE MANAGEMENT BOARD OF EUROPOL
repealing the Act of the Management Board of Europol of
29 November 2006 laying down the rules on Europol
personal files**

THE MANAGEMENT BOARD OF EUROPOL,

Having regard to the Council Act of 3 December 1998 laying down the Staff Regulations applicable to Europol employees (hereafter the 'ESR')¹, and in particular Article 23 thereof,

Having regard to the Council Decision of 6 April 2009 establishing the European Police Office (Europol) (2009/371/JHA) (hereafter the 'Europol Council Decision')², and in particular Articles 57(5) and 63 thereof,

Having regard to Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA (hereafter the 'Europol Regulation')³ and in particular Articles 53 and 76 thereof,

Having regard to the Decision of the Director of Europol of 17 December 2007 adopting the Staff Regulations applicable to Local Employees (hereafter the 'LSR')⁴,

On proposal of the Executive Director, after consulting the Europol Staff Committee,

Whereas:

- (1) The Act of the Management Board of 29 November 2006 laying down the rules on Europol personal files (hereafter the 'MB Act on personal files') was adopted during the years of the Europol Convention⁵, and was based specifically on Article 23(1) of the ESR, which stipulated that *[a]cting 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.*
- (2) The MB Act on personal files concerns the files held by the Administration on the personnel of Europol, i.e. the "personal files"⁶, and consists of very detailed provisions on the protection of personal data.

¹ OJ C 26, 30.01.1999, p.23 (EDOC#39215).

² OJ L 121, 15.5.2009, p. 37.

³ OJ L 135, 24.5.2016, p. 53.

⁴ EDOC#281099 and its Annex EDOC#227269.

⁵ Convention based on Article K.3 of the Treaty on European Union, on the establishment of a European Police Office (Europol Convention), OJ C 316, 27.11.1995, p. 1 (no longer in force).

⁶ According to Article 23 of the ESR, personal files contained the following:

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- (3) Apart from the Europol staff members under the ESR, the ESR⁷ also foresaw the recruitment by Europol of Local Staff, governed by the Local Staff Regulations (hereafter the 'LSR')⁸, whose personal files were also covered by the MB Act on personal files.
- (4) By repealing the Europol Convention, the Europol Council Decision gave Europol the status of an agency of the European Union. Pursuant to Article 39 of the Europol Convention, the Staff Regulations of Officials of the European Union (hereafter the 'Staff Regulations') and the Conditions of Employment of Other Servants of the European Union (hereafter the 'CEOS') thus became applicable to Europol staff.
- (5) Article 63 of the Europol Council Decision repealed all measures implementing the Europol Convention, but Article 57(5) of the Europol Council Decision maintained the applicability of the ESR and LSR, and of other relevant instruments, including of the MB Act on personal files, for staff members who did not conclude contracts under the Staff Regulations and CEOS.
- (6) The Europol Regulation repealed the Europol Council Decision, yet its Article 53 maintained the limited applicability of the ESR/LSR. The Management Board therefore did not repeal the MB Act on personal files on the basis of Article 76 of the Europol Regulation.
- (7) Article 26 of the Staff Regulations⁹ concerning personal files, does not lay down the same obligation for the Management Board to adopt detailed rules on personal files, as Article 23(1) of the ESR.
- (8) The MB Act on personal files is no longer necessary as details on the protection of personal data in relation to personal files are captured in a Record of Processing Activities, as required pursuant to Article 31 of Regulation 2018/1725 of the European Parliament and of the Council of 23 October 2018¹⁰. This Regulation is applicable to all administrative data held by Europol according to Article 46 of the Europol Regulation.
- (9) The MB Act on personal files is outdated and does not reflect the actual management of personal files in the agency today.
- (10) The MB Act on personal files must be repealed,

HAS ADOPTED THIS DECISION:

Article 1

Repeal

1. The Act of the Management Board of Europol of 29 November 2006 laying down the rules of Europol personal files (hereafter the 'MB Act on personal files')¹¹ is hereby repealed.

(a) all documents concerning [a staff member's] 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; [...]

⁷ Article 3 and Title III thereof.

⁸ EDOC#227269.

⁹ Applicable by analogy to temporary and contract staff by virtue of Articles 11 and 81 of the Conditions of Employment of Other Servants of the European Union, respectively.

¹⁰ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC, OJ L 295, 21.11.2018, p. 39.

¹¹ EDOC#209421.

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2. This decision shall enter into force on the day after its publication on the Europol *Vademecum*.

Done at Lille on 28 June 2022,

For the Management Board,



Jérôme Bonet
Chairperson of the Management Board