



**AD 2011-27**

**Decision on the Working Hours, Flexitime and Overtime**

**THE APPOINTING AUTHORITY OF EUROJUST**

Having regard to the Staff Regulations of Officials of the European Union (hereinafter referred to as "Staff Regulations") and the Conditions of Employment of Other Servants of the European Communities (hereinafter referred to as "CEOS"), laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68 and the amendments thereto, and in particular Articles 55, 56 and Annex VI to the Staff Regulations, and Articles 16, 57, 91 of the CEOS,

Having regard to Council Decision of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime (2002/187/JHA), last amended by Council Decision of 16 December 2008 (2009/426/JHA), and in particular Article 30 thereof,

Having regard to the Rules of Procedure of Eurojust (2002/C 286/01) and in particular Articles 24 and 25 thereof,

Having regard to the Commission Guide to flexitime on the basis of a 37,5-hour week in force from 1 January 2007, and with a view to:

- Accommodating the needs of employees without undue hardship;
- Accommodating family responsibilities;
- Accommodating disabilities;
- Ensuring equal opportunities within Eurojust;
- Reducing absenteeism;
- Allowing all members of the staff to work to their full potential;
- Improving morale and encouraging loyalty;
- Reducing costs by reducing the performance of overtime;
- Retaining staff by providing them with a flexible working environment; and
- Matching working hours with peaks and troughs of work,

Whereas the adoption of any flexible work arrangement policy is not statutory or legally mandatory,

Whereas Eurojust wishes to give staff members flexibility in the organisation of their working hours and allow them to assume responsibility for managing their working hours,

Whereas the individual management of working hours must not constitute an obstacle to the performance of the tasks of Eurojust and whereas the Members of the College,

the Administrative Director and the Heads of Units and Services may ensure that the national desks and the units and services operate more effectively by means of a flexible timetable, which is more easily adapted to the specific circumstances of each national desk/unit/service,

## **HAS DECIDED AS FOLLOWS:**

### **Scope**

#### *Article 1*

This Decision shall apply to Eurojust staff as defined in Article 30(2) of the Eurojust Decision. It shall be applicable to all work performed except for work performed as standby duty which is governed by a specific regime.

### **Definitions**

#### *Article 2*

For the purpose of this Decision:

*"superior"* shall mean a National Member for staff working at national desks, the Administrative Director for staff directly reporting to him or the Head of Unit/Service for staff working in the respective unit/service.

*"time-frame of a working day"* shall mean the time in which the working hours shall be performed.

*"accounting period"* shall mean a specific period at the end of which staff may complete a balance sheet showing the number of hours actually worked as compared with the set number of hours to be worked in this period.

### **Hours to be worked**

#### *Article 3*

1. Without prejudice to the provisions of the Staff Regulations on the conditions and procedure for authorising part-time work for staff, the number of hours to be worked at Eurojust shall be on average 37,5 per week. The calculation of the average number of hours to be worked per week is based on an accounting period of one calendar month, starting on the first day of the month.

2. In the case of holidays of the Staff Member, a Eurojust public holiday or sick leave of the Staff Member (Article 9(2) of this Decision), the average number of hours to be worked per week will be reduced accordingly.

## **The working day**

### *Article 4*

1. The time-frame of a working day within which working hours should be performed is from Monday to Friday from 07:00 to 20:00.
2. Some staff shall be present at the national desks and in the units/services from Mondays to Thursdays from 09:00 to 13:00 and from 14:00 to 17:00 and on Fridays from 09:00 to 12:00 in accordance with the procedure laid down in Article 6(2) of this Decision.
3. Core time during which all staff shall be on duty is from Monday to Thursday from 10:00 to 12:00 and from 14:00 to 16:00 and on Friday from 10:00 to 12:00. General exceptions to this rule for certain staff may be granted by the superior after approval of the Appointing Authority.
4. Outside core time, staff members are free to choose within the time-frame set out in paragraph 1, and in agreement with their superior, the times at which they arrive and leave (flexitime).
5. Not more than ten hours should be worked in one day and a lunch break of not less than 30 minutes shall be taken.

## **Night, Sunday and holiday work**

### *Article 5*

Staff members may not be required to work between 22:00 and 07:00 (night work) and on Sunday or on a Eurojust public holiday except in cases of urgency, exceptional pressure of work, or where it is necessary for the maintenance of the Eurojust infrastructure. Such requests by the Staff Member's superior require the authorisation of the Appointing Authority prior to the performance of the work. The procedure as set out in Article 11(2) second sentence of this Decision applies by analogy.

## **Management and planning of working hours**

### *Article 6*

1. The organisation of work within national desks/units/services shall be the responsibility of the National Member or the Head of Unit/Service, or, if absent, his or her deputy, who shall endeavour to resolve any problems that may arise by means of dialogue and increased teamwork.
2. In order to ensure permanence during the hours referred to in Article 4(2) of this Decision on the National Members' floors, the National Members of each floor shall agree amongst themselves in consultation with the unit/service responsible for

administrative matters for staff working at national desks on the availability of staff in full respect of the average number of hours to be worked at Eurojust as defined in Article 3 of this Decision. If necessary, units/services may make similar arrangements among themselves. This co-ordination shall take into account both the needs of the staff members and the requirements of the national desks/units/services.

3. The distribution of responsibility for the application of this Decision may be altered upon a written request from the National Member or the Head of the Unit/Service concerned, approved by the Appointing Authority. The aforementioned request shall indicate how the responsibility is to be distributed and the period of time during which this distribution is valid.

4. Each Staff Member shall determine his or her working hours in accordance with Article 4 of this Decision, taking into account the average number of hours to be worked per week as defined in Article 3 of this Decision, the interests of the service, the needs of other staff members and the request of the superior. In case of disagreement on the time-frame of work between the Staff Member and the superior and without prejudice to Article 14 of this Decision, the request from the superior prevails if within reasonable limits.

### **Recovery of surplus or deficit hours**

#### *Article 7*

1. The accounting period is fixed at one calendar month, starting on the first day of the month.

2. In the case of all categories of staff, hours worked in accordance with Article 4 of this Decision exceeding (surplus) or not reaching (deficit) the hours to be worked within the accounting period (which corresponds to 150 hours in case of full-time work) shall be recoverable.

3. Surplus hours

(a) Full-time work

Any surplus hours worked, up to a maximum of 15 hours (two days' work) per accounting period, may be carried over to the following accounting period.

Surplus hours may be recovered as half days or full days of leave, up to a maximum of two days.

The half days or full days of leave must be authorised by the superior of the Staff Member concerned and information shall be circulated to the Human Resources Unit.

In the event that the surplus hours cannot, in the reasonable opinion of the superior, be recovered in the following accounting period due to the requirements of the service, the Appointing Authority may approve the recovery of such hours in the next available accounting period, to be determined by the superior. In the event that the Staff Member decides not to recover such hours in that next available accounting period, such hours shall elapse.

Any surplus hours worked in excess of 15 hours in the accounting period may not be recovered.

(b) Part-time work

Any surplus hours worked, up to a maximum of the number of hours corresponding to two-fifths of the agreed weekly working hours per accounting period, may be carried over to the following accounting period.

Surplus hours may be recovered as hours of leave.

These hours of leave must be authorised by the superior of the Staff Member concerned and information shall be circulated to the Human Resources Unit.

In the event that the surplus hours cannot, in the reasonable opinion of the superior, be recovered in the following accounting period due to the requirements of the service, the Appointing Authority may approve the recovery of such hours in the next available accounting period, to be determined by the superior. In the event that the Staff Member decides not to recover such hours in that next available accounting period, such hours shall elapse.

Any surplus hours worked in excess of two-fifths of the agreed weekly working hours in the accounting period may not be recovered.

4. Deficit hours

Any deficit

(a) up to a maximum of 7 hours and 30 minutes (1 day's work) per accounting period in the case of full-time work, or

(b) up to a maximum of one-fifth of the agreed weekly working hours per accounting period in the case of part-time work

shall be carried over to the following accounting period.

Any deficit which exceeds these maximum limits shall be deducted from annual leave. If the Staff Member concerned has used up his/her annual leave, he/she shall forfeit his/her remuneration for an equivalent period.

## **Calculation and monitoring**

### *Article 8*

1. A system for calculating hours shall be provided to staff in order to draw up, for every accounting period, a positive or negative balance of hours worked in relation to the working hours as defined in Article 3 of this Decision. Use of this system shall be made either upon the preference of the staff member choosing to make use of the facility for recovery of surplus and deficit hours or upon the request of his superior.
2. Each Staff Member must personally be responsible for recording, checking and calculating his or her working hours. Each Staff Member must make the entries him/herself. Staff members are personally responsible for the entries they make and must ensure their accuracy. All starting and finishing times must be entered to the nearest five minutes. Calculation sheets shall be transmitted by the Staff Member to the superior, who shall be responsible for retaining their records.
3. Hours worked outside the time-frame set out in Article 4(1) of this Decision must be taken into account for the Staff Member's balance of working hours if they were authorised by the superior.

## **Absences due to medical reasons**

### *Article 9*

1. Absences due to medical reasons during core time shall count as working time, except in the event of manifest abuse. Staff members working part-time are expected not to attend to such matters during working hours.
2. In the case of sick leave, the number of hours to be worked in the week will be reduced accordingly.

## **Absences**

### *Article 10*

Absences not covered by Article 9 of this Decision during the core time shall only occur exceptionally and must be authorised by the Staff Member's superior. In case of absence surpassing 1½ hours during core time, records are to be kept within the national desk/unit/service concerned and information is to be sent to the Human Resources Unit. Such absences shall in any case be deducted from the Staff Member's number of hours worked. Only absences due to *force majeure* shall be excluded from this rule.

## **Overtime**

### *Article 11*

1. Staff members may not be required to work overtime except in cases of urgency or exceptional pressure of work. The total overtime which staff members may be asked to work shall in no case exceed 150 hours in any six-month period.
2. The right to compensation or remuneration for overtime performed by staff in grades AST 1 to AST 4 and in function groups I and II is subject to prior authorisation by the Appointing Authority. The decision is taken on the basis of a written request submitted by the Staff Member's superior stating the hours of overtime per week requested, the reasons for the necessity to perform overtime, the staff member(s) involved and the estimated duration of this exceptional situation. Unless the superior guarantees in the request a possibility for compensatory leave during the month following the period for which overtime is requested, overtime shall only be authorised when sufficient budgetary means are available.
3. Overtime worked by staff in function group AD, in grades AST 5 to AST 11 and in function groups III and IV shall carry no right to compensation or remuneration.
4. Within the limits laid down in Article 56 of the Staff Regulations, overtime worked by staff members in grades AST 1 to AST 4 and in function groups I and II shall entitle them to compensatory leave or to remuneration as follows:
  - a) For each hour of overtime, staff members shall be entitled to 1½ hours off as compensatory leave, if the hour of overtime is worked between 22:00 and 07:00; 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 month following that during which the overtime was worked, the Appointing Authority shall authorise remuneration for uncompensated hours of overtime at the rate of 0,56% 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.
5. The exercising and enforcement of the right to compensatory leave or remuneration follows the following procedure:
  - a) A written request for compensation of overtime with compensatory leave shall be made by the Staff Member concerned indicating the times in which overtime was

worked and submitted to his/her superior for approval. The latter must grant compensatory leave if the procedure set out in paragraph 2 of this Article was respected and, while also taking into account the preference of the Staff Member concerned, requirements of the service are not contravened. Records of granted compensatory leave shall be kept by the national desk/unit/service concerned.

b) In cases where compensatory leave cannot be granted due to requirements of the service, the superior of the Staff Member concerned must address without delay a request for remuneration to the Appointing Authority stating the reasons why compensatory leave cannot be granted. If the procedure set out in paragraph 2 of this Article was respected, the Appointing Authority must grant remuneration.

6. The rules set out in paragraph 4 do not apply to overtime for which a flat rate allowance is granted by decision of the Appointing Authority.

### **Compensatory leave for missions**

#### *Article 12*

1. In the case of all categories of staff, the time required to travel to the place of a mission or to return to the place of employment may not be deemed to be overtime within the meaning of Article 11.

2. A journey taken at the weekend or on Eurojust public holidays in order to travel to the place of a mission, which is immediately followed by the start of the mission, may be compensated for by one half day of leave, depending on the amount of time the journey actually takes. The same applies to a journey taken at the weekend or on Eurojust public holidays in order to travel to the place of employment immediately after the end of a mission.

3. Compensation is to be authorised by the superior of the staff concerned and records shall be kept within the national desk/unit/service concerned and information shall be circulated to the Human Resources Unit.

### **Minimum presence**

#### *Article 13*

1. The Appointing Authority shall draw up a list of public holidays for each year and determine whether it is necessary for a minimum staff presence to be arranged.

2. Staff fulfilling this minimum presence shall be entitled to compensatory leave of two days for each full day worked and one day for each half day worked.



## **Settlement of disputes**

### *Article 14*

1. Any disagreements concerning the application of this Decision between the Staff Member and his/her superior that cannot be solved by means of dialogue within a reasonable time must be submitted either by the Staff Member, his/her superior or both of them in writing to the Head of the Human Resources Unit. This applies in particular to disagreements related to the planning of working hours in accordance with Article 6(4) of this Decision, to recovery and calculation of surplus and deficit hours in accordance with Articles 7 and 8 of this Decision and to all issues related to overtime (Article 11 of this Decision).
2. The Head of the Human Resources Unit shall try to resolve the dispute without undue delay. If no solution can be found, those concerned may submit the matter to the Appointing Authority, who will mediate or appoint a third person to mediate.

## **Repeal of prior Decision**

### *Article 15*

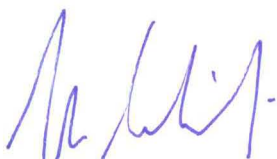
As of the date of entry into force of the present Decision, the Decision of the Administrative Director on the working hours, flexitime and overtime of 2006 shall be repealed.

## **Entry into force**

### *Article 16*

This Decision shall enter into force on the 01 January 2012.

Done at The Hague on 7 December 2011

A handwritten signature in blue ink, appearing to read 'K. Rackwitz'.

Klaus Rackwitz  
Administrative Director