



EUROJUST
P.O. Box 16183
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THE NETHERLANDS

DECISION OF EUROJUST

on General Implementing Provisions on the Yearly Performance Appraisal

EUROJUST,

Having regard to the Staff Regulations of Officials of the European Communities (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 in particular to Article 43 of the Staff Regulations and to Articles 15(2) and 87(1) 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), and in particular to Article 30 thereof,

Having regard to the Rules of Procedure of Eurojust (2002/C286/01), and in particular to Article 25 thereof,

Having regard to the Decision of the College of Eurojust of 22 March 2005 on the delegation of powers to the Administrative Director for the approval of the necessary implementing rules to the Staff Regulations,

After consultation with the Staff Committee of Eurojust and in agreement with the European Commission by analogy to Article 110 of the Staff Regulations,

Whereas the appraisal system aims in particular at assessing individual achievements and performance in the light of the results to be attained, competencies and the various aspects of conduct in the service.

Whereas pending the Commission's agreement on the draft decision on general implementing provisions on the yearly performance appraisal concerning the staff members at Eurojust and considering that there is a strong need to launch the first appraisal exercise for the year 2008,

HAS PROVISIONALLY DECIDED AS FOLLOWS:



Title I: General Provisions

Article 1 - Definitions

For the purposes of this Decision:

- "temporary agent" means the staff referred to in Articles 2(a) and 2(b) of the CEOS.
- "contract agent" means the staff referred to in Article 3a of the CEOS.
- "staff member" means both the staff recruited at Eurojust as "temporary agent" or as "contract agent" in the above-mentioned terms and the staff referred to in Article 1(1) of the Staff Regulations and is the person who is being appraised.

Article 2 – Scope

- 1) These rules shall apply to Eurojust staff as defined in Article 30(2) of the Eurojust Decision, who has been recruited as temporary agent or contract agent, except for staff members carrying out senior managerial functions, whose appraisal is subject to appropriate implementing provisions.
- 2) An appraisal exercise shall be conducted at the beginning of each year. The reference period of the appraisal exercise runs from 1 January to 31 December of every year. All staff members who were in active service for a continuous period of at least one month in the year have to be appraised.
- 3) The career development report shall be drawn up covering the reporting period. The career development report shall cover the periods in which the staff member was in active employment or on secondment in the interests of the service.
- 4) The appraisal system shall be aimed in particular at evaluating the staff member's efficiency, competencies and conduct in the service.
- 5) Probationary staff shall be assessed respectively in accordance with Articles 14 and 84 of CEOS.

Even where there is already a probationary report covering all or part of the reference period established for the annual appraisal exercise, the staff member concerned shall undergo an annual performance appraisal as described in the decision.



- 6) A career development report does not have to be drafted for staff members who left Eurojust in the same year or who are going to leave in the following year, unless they expressly request one.

Article 3 - Respective roles and rank of the reporting officer, countersigning officer and appeal assessor

- 1) The respective roles are described as follows:

- "reporting officer" means the person responsible for carrying out the appraisal.
- "countersigning officer" means the person who, for the career development report for which he or she is held responsible, watches over the consistent application of the appraisal standards.
- "appeal assessor" means the person who decides on the follow-up to the opinion delivered by the Joint Instance referred to in Article 8.

- 2) As a general rule:

- a. the reporting officer shall be the staff member's head of Unit/Service/National Desk,
- b. the countersigning officer shall be the Deputy Administrative Director, except in the cases regulated by paragraph 4 below ; and
- c. the appeal assessor shall be the Administrative Director.

- 3) In large Units/Services/National Desks the head of Unit/Service/National Desk may, subject to the approval of the Appointing Authority, delegate the role of reporting officer to staff members in an administrator's function group (AD) who administer or supervise staff members in an assistant's function group (AST), in which case the head of the Unit/Service/National Desk shall be the countersigning officer and the Appointing Authority shall be the appeal assessor. Heads of Unit/Service/National Desk may, without relinquishing their role as reporting officer, delegate the administrative work preparatory to the appraisal of staff members in their Unit/Service/National Desk, including the preparation of the dialogue referred to in Article 7(3), to a staff member assigned to the Unit/Service/National Desk, in a grade higher than the grade held by the staff member to be appraised and in the light of his or her ability and the duties he or she exercises within the Unit/Service/National Desk.



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- 4) For staff members that are directly reporting to the Administrative Director, the Administrative Director shall be both the reporting officer and the countersigning officer and the Deputy Administrative Director shall be the appeal assessor.
- 5) The Administrative Director, the Deputy Administrative Director and the heads of Unit/Service/National Desk shall, for the Unit/Service/National Desk for which they are held responsible, ensure that the appraisal of staff members' merits is consistent within each grade.
- 6) In the event of a change in the organisation chart of a Service, Unit or National Desk, which is the subject of a Eurojust Decision, the above mentioned Service, Unit or National Desk may derogate from paragraphs 1 to 3 above to take account of the specific context arising from that change.

Title II: Procedure

Article 4 - Simplified procedure

- 1) A carry over shall consist in drawing up a career development report the content of which is identical to the preceding career development report. The report to be drawn up shall be closed once the staff member, reporting officer and countersigning officer have agreed to its being carried over, without it being necessary to follow the procedure referred to in Article 7.
- 2) A carry over shall be authorised by the countersigning officer if there has been no significant change in the staff member's efficiency, competencies and/or conduct in the service.
- 3) The reporting officer shall organise a formal dialogue with the staff member on the setting of objectives and the training map. An annual report may not be carried over for two consecutive years.

Article 5 - Staff assigned outside Eurojust and staff representatives

- 1) Reports on staff members temporarily assigned outside EUROJUST shall be drawn up by the Unit of origin of the staff member concerned. The reporting officer shall be the staff member's most recent superior in the institution of origin or, failing this, the Head of the Resources Unit; the countersigning officer shall be the Deputy Administrative Director and the appeal assessor shall be the Administrative Director. If the reporting period includes a period of or assignment of four months or more, the reporting officer shall consult the staff member's superiors in the host service and shall request them to organise and hold the dialogue referred to in Article 7(3) and to draw up a



draft report. The staff member shall be notified of this draft report, which shall contain no marks.

- 2) Reports on elected, appointed or delegated staff members shall be drawn up by the reporting officer and the countersigning officer of the service to which they have been assigned. Appeals against the report shall be dealt with by the Joint Instance, as referred to in Article 8.

If staff members belong to one of the categories referred to above, they shall mention this fact in their self-assessment.

Article 6 - Layout of the career development report and appraisal guide

- 1) Eurojust shall publish appraisal standards included in an appraisal guide showing how to set objectives, evaluate efficiency, competencies and conduct in the service, and draw up the training map. Staff members, reporting officers and countersigning officers shall ensure that the guidelines set out in it are complied with.
- 2) The layout of the career development report and the appraisal guide may be altered, by decision of the Appointing Authority, after consulting the Staff Committee, to take account of staff policy requirements.
- 3) Staff members shall each be allowed access to their career development reports.

Article 7 - Appraisal procedure

- 1) The annual appraisal exercise shall begin on 15 January at the latest and shall be closed by the end of April at the latest.
- 2) The staff member shall, within ten working days of receiving a request to that effect from the reporting officer, produce a self-assessment, which shall be included in the career development report.
- 3) Within ten working days of the staff member submitting a self-assessment, the reporting officer and the staff member shall engage in a formal dialogue. The dialogue shall constitute one of the reporting officer's basic management duties. The reporting officer may, if the staff member refuses to finalise the self-assessment within the time limit applicable, decide that the dialogue should take place when the time limit specified in paragraph 2 expires.
- 4) Where the staff member and the reporting officer share the same grade, the countersigning officer shall take part in the dialogue if the staff member, reporting officer or countersigning officer so requests.



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- 5) The dialogue shall cover three aspects: in the light of the self-assessment referred to in paragraph 2, appraising the staff member's performance/efficiency during the reporting period, setting objectives for the year following the reporting period and drawing up a training map.
 - a) Taking the self-assessment into account, the reporting officer shall, jointly with the staff member, consider the latter's efficiency, the competencies he or she has demonstrated and his or her conduct in the service during the reporting period. In this context, the reporting officer shall not take into account any justified absences of the staff member to his or her prejudice.
 - b) The reporting officer shall present the staff member with proposed objectives to be attained in the context of the post, together with a list of the competencies required, the manner in which the results are to be assessed and the conditions in which they are to be achieved. The objectives shall be in keeping with the working conditions (part-time work, secondment, etc.) and be consistent with the objectives of the work programme of Eurojust and the Unit/Service/National Desk. They shall constitute the basis on which efficiency is to be measured. If the reporting officer and the staff member cannot agree on the objectives, the countersigning officer shall take a final decision on the matter after hearing the staff member's views. The objectives shall form an integral part of the career development report for the period concerned.
 - c) The reporting officer shall draw up jointly with the staff member a training map which takes account of the objectives linked to the staff member's work programme, personal development goals and career development. The objectives and the training map shall be re-examined and possibly adapted in the event of any significant change in the nature of the staff member's duties. They may also be reviewed in the course of the year and, where necessary, adapted.
- 6) Within ten working days after the formal dialogue has been held, the reporting officer shall draw up a draft career development report, which shall include appraisals of efficiency, competencies and conduct in the service and a proposed analytical evaluation which is consistent with the indications given during the formal dialogue and submit it to the countersigning officer. The reporting officer shall sign the career development reports for which he or she is held responsible.
- 7) The countersigning officer shall seek to ensure that, across Eurojust and within each function group and grade, the merits of the staff members concerned have been appraised consistently.
- 8) The reporting officer and the countersigning officer shall finalise each career development report and transmit it to the staff member within ten working days. Before countersigning the career development report for which he/she



is held responsible, the countersigning officer shall compare the analytical evaluations proposed by the reporting officer. In cases of disagreement with the reporting officer, final responsibility for the career development report shall rest with the countersigning officer. Where the staff member and the reporting officer share the same grade, the countersigning officer shall enter his or her comments in the appropriate section of the report. In the case of extreme analytical evaluations (such as 1,6) they shall be the object of a proper justification in writing.

- 9) The staff member shall have up to ten working days after receipt of the career development report report to either:
- a) accept the career development report without adding any comments; or
 - b) accept it after adding some comments in the appropriate section; or
 - c) refuse to accept the career development report, stating in the appropriate section the reasons for requesting that it be reconsidered.

If he or she accepts it, the career development report shall be declared final. If the staff member fails to react within the time limit set, he or she shall be deemed to have accepted the career development report.

- 10) If the staff member refuses to accept the career development report, the countersigning officer shall hold a dialogue with him or her within five working days. If the staff member, reporting officer or countersigning officer so requests, the reporting officer shall also take part in the dialogue. The staff member may arrange for another staff member to assist him or her during the dialogue.

No later than ten working days after this dialogue the countersigning officer shall either confirm or amend the report and transmit it to the staff member. The staff member shall have up to ten working days after the receipt of the career development report to either:

- a) accept the career development report without adding any comments; or
- b) accept it after adding some comments in the appropriate section; or
- c) refuse to accept it, stating the reasons in the appropriate section.

If he or she accepts it, the career development report shall be declared final. If the staff member fails to react within the time limit set he or she shall be deemed to have accepted the career development report.

- 11) The staff member's reasoned refusal to accept the career development report shall automatically mean referral of the matter to the Joint Instance referred to in Article 8.



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- 12) The countersigning officer shall keep the reporting officer duly informed of the progress of the various stages in the procedure and the decisions taken.
- 13) The time limits referred to in this Article shall be calculated only from the time when the relevant decision has been notified to the person concerned or, at the latest, when the latter, acting as a diligent staff member, may be expected to be aware of the content of this decision and the underlying reasons. The time limits shall be suspended where the staff member or the reporting officer/countersigning officer is prevented from it by a justified absence or the like. If prevented from doing so for a long time, the staff member shall lodge an internal appeal by sending a communication to the Human Resources Unit within a period of twenty working days of acquiring a knowledge of the content of the decision and the underlying reasons. He or she may request that the appraisal procedure be suspended, giving reasons. If the staff member fails to react, the Human Resources Unit shall be authorised to declare the career development report final. If at any stage in the procedure the reporting officer fails to comply with the time limits applicable, the staff member may refer the matter to the countersigning officer.
- 14) The staff member shall be notified, by e-mail or other written means, that the decision rendering the report final has been adopted, pursuant to this Article or Article 8(9). Such notification shall constitute communication within the meaning of Article 25 of the Staff Regulations.

Article 8 - Joint Instance

- 1) A Joint Instance shall be set up in Eurojust on a case-by-case basis within ten working days from the staff member's reasoned refusal, as indicated in Article 7(11). Provided the organisation chart of Eurojust so permits, the Joint Instance shall be composed as follows:
 - A Chair, with the rank of Head of Unit appointed by the Appointing Authority.
 - two members: one staff member from the function group administrator (AD) from the Human Resources Unit, appointed by the Appointing Authority; and one staff representative appointed by the Staff Committee. (2) The Chair and every full member shall each have at least one alternate appointed in the same way as the Chair and the full members. The Chair shall, if absent, be replaced by the staff member from the function group administrator (AD) that had been appointed by the Head of Human Resources. Alternate members may take part in meetings even when the full



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members are present, but shall in such cases not be entitled to vote. An alternate member shall automatically be entitled to vote if the full member he or she represents is absent.

- 3) The Joint Instance shall meet by invitation of the Chair. Opinions shall be adopted by a simple majority of the members present who are entitled to vote. The Chair has the right to vote exclusively in case of a tied vote. For the Joint Instance 's decisions to be valid, all members with right to vote shall be present. In the event where an opinion could not be delivered after the first meeting, every new meeting after a failure to meet shall be convoked within two working days. If after three invitations the Joint Instance fails to meet with its three members, the members present shall record its failure to deliver an opinion.
- 4) The Joint Instance may not take the place of the reporting officer or the countersigning officer as regards appraising the staff member's performance. It shall verify that career development reports have been drawn up fairly and objectively, i.e. where possible on a factual basis and in accordance with these general implementing provisions and the appraisal guide. It shall verify in particular that the procedure laid down in Article 7 has been followed. To this end it shall carry out the necessary consultations and shall have at its disposal any relevant documents. The Joint Instance shall, when appealed to by a staff member who shares the same grade as the reporting officer, pay particular attention to the appeal, verifying in particular that the career development report is impartial.
- 5) The Joint Instance shall, when appealed to under Article 7(11), deliver an opinion within ten working days from its establishment.
- 6) If the Chair or a member of the Joint Instance has a personal interest in a matter such as to impair his or her independence in the handling of that matter, he or she shall be replaced by the appropriate alternate member and refrain from participating in the work of the Joint Instance. A conflict of interest is deemed to arise in particular where the Chair or member is also the reporting officer, countersigning officer or appeal assessor for the staff member who has appealed to the Joint Instance or where the staff member, acting on the authority of the Staff Committee or as a representative of a trade union or staff association, has been in contact with the Chair or one of the members on matters of personnel management. The declarations of no conflict of interest and of confidentiality to be signed by the Chair, the members and the alternates of the Joint Instance, are enclosed in Annexes I and II to this Decision.
- 7) The opinion of the Joint Instance shall be transmitted to the staff member, reporting officer, countersigning officer and appeal assessor. The Joint Instance's opinion shall, where it has been adopted following a vote, state the majority and minority opinions expressed. Failure by the Joint Instance to deliver an opinion shall be subject to a written justification and shall be



reported to the staff member, reporting officer, countersigning officer and appeal assessor.

- 8) The appeal assessor shall confirm or amend the career development report report within five working days. Where the appeal assessor departs from the recommendations set out in the opinion of the Joint Instance, he or she shall provide reasons for that decision. Where the Joint Instance is appealed to by a staff member who shares the same grade as the reporting officer and either does not deliver a unanimous opinion or fails to deliver an opinion, the appeal assessor shall pay particular attention to the appeal and hold a dialogue with the staff member within five working days. Five working days after the dialogue has taken place, the appeal assessor shall either confirm or amend the report or amend it in accordance with the preceding subparagraph.
- 9) The career development report report shall then be declared final and communicated to the staff member concerned, the reporting officer, the countersigning officer and the Joint Instance.

Article 9 – Complaints

A complaint may not be submitted under Article 90(2) of the Staff Regulations or a matter be referred to the Civil Service Tribunal until a report has been declared final.

Article 10 – Transitional Measures

The following transitional provisions shall apply by way of derogation alongside the general rules laid down above:

- 1) for the first annual appraisal exercise taking place before 31 December 2009, the Countersigning Officer shall be the Administrative Director and no Appeal Assessor shall be included in the process;
- 2) for staff members who took up duty between 01 January 2003 and 31 December 2007, and who have never been appraised throughout this period, the first appraisal exercise shall take into account not only their performance during 2008 but also the performance over the period since they took up duty.



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Title III: Final Provisions

Article 11 - Final provisions

These provisions shall apply to the career development reports to be drawn up from 1st February 2009 onwards.

Article 12 - Entry into force

This Decision shall enter into force on the date following that of its adoption.

Done at The Hague, on 11 February 2009

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