



EUROJUST
P.O. Box 16183
2500 BD The Hague
THE NETHERLANDS

DECISION OF EUROJUST

on the career and reclassification of temporary agents

EUROJUST,

Having regard to the Staff Regulations of officials of the European Union (hereinafter referred to as the "Staff Regulations") and the Conditions of employment of other servants of the European Union (hereinafter referred to as the "CEOS") laid down by Council Regulation (CEE, Euratom, ECSC) n° 259/68,¹ and in particular Article 10 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) (hereinafter referred to as the "Eurojust Decision"), 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 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,

Having regard to Commission decision C(2005)5304 of 16 December 2005 concerning guidelines on the staff policy for regulatory agencies,

Having regard to the Decision of the College of Eurojust of 22 December 2008 on general implementing provisions for the procedure governing the engagement and use of temporary agents at Eurojust (hereinafter referred to as "Decision on Temporary Agents"),

Having regard to the Eurojust Decision on General Implementing Provisions on the Yearly Performance Appraisal of 24 April 2009 (hereinafter referred to as the "Yearly Performance Appraisal Decision"), and

After consultation with the Staff Committee of Eurojust and in agreement with the European Commission pursuant Article 110(1) of the Staff Regulations,

Whereas:

- (1) It is desirable to provide for career progression for temporary staff on long-term employment within Eurojust;

¹ And the amendments thereto.

- (2) To this end, it is appropriate to set up for temporary staff with long-term employment on permanent tasks an annual reclassification exercise under Article 10 of the CEOS; and
- (3) The goal of the reclassification exercise applicable to Eurojust staff should be to establish over time a close link between performance, merit and individual aptitude, as demonstrated by the yearly performance appraisal under Article 15(2) of the CEOS,

HAS DECIDED AS FOLLOWS:

TITLE I: GENERAL PROVISIONS

Article 1 - Definitions

For the purposes of this Decision:

- (a) "staff member" means the staff recruited by Eurojust as "temporary agents" as referred to in Article 2(a) and 2(b) of the CEOS.
- (b) "reclassification" means the assignment of temporary staff to employment corresponding to a grade superior to that to which they were initially employed, namely constituting a nomination to the grade immediately higher than the grade held within the function group to which the temporary agent belongs;
- (c) "supervisor" means a national member for temporary agents working at national desks, the Administrative Director for staff directly reporting to him or the head of unit or service for temporary agents working in a unit or service; and
- (d) "average career" means a career following the indicative average duration of service in active employment to be carried out in each grade before being reclassified to a higher grade;
- (e) "reporting period" means the period from 1 January to 31 December of the year prior to the year in which the reclassification exercise takes place;
- (f) "capital of points" means the total of reclassification points accumulated over the years at the moment the reclassification exercise takes place.

Article 2 – Scope

1. This Decision shall apply to Eurojust staff members, as defined in Article 30(2) of the Eurojust Decision, who have been recruited as temporary agents remunerated through the Eurojust budget, where the grade allows reclassification to a higher grade within their function group, other than temporary agents of a grade higher than AD 13.

2. Temporary staff employed on a short-term basis for tasks limited in time, as defined in Article 3 of the Decision on Temporary Agents, do not take part in the annual reclassification exercise as defined in this Decision.

3. However, those short-term employed temporary staff members whose contract was concluded for a duration equal to or longer than three years and the duration of whose tasks, although limited in time, would likely lead to contract renewal, could benefit from a reclassification to the grade immediately higher than the one held within the function group to which temporary staff belong on the basis of Article 10 of the CEOS. This reclassification takes place at the time of renewal of the contract and depends on the resources and the budgetary posts available at the end of the annual reclassification exercise of long-term employed temporary staff.

Article 3 - Principle

1. Temporary agents referred to in Article 2(1) are eligible for reclassification if they have completed, by 31 December of the calendar year in which the reclassification exercise takes place, a minimum of two years service in their grade.

2. Reclassification shall be the result of a selection from among temporary agents eligible for reclassification, after consideration of their comparative merits, taking into account in particular their career development reports, the use in the execution of their duties of languages other than the language for which they have produced evidence of thorough knowledge in accordance with Article 12(2)(e) of the CEOS, and, where appropriate, the level of responsibility exercised by them.

3. Temporary agents shall be required to demonstrate before their first reclassification after recruitment the ability to work in a third language among those referred to in Article 55 of the TEU in accordance with Article 45(2) of the Staff Regulations.

Article 4 – Reclassification exercise

1. A reclassification exercise is organised every year and carried out after the evaluation exercise foreseen by the Yearly Performance Appraisal Decision.

2. Reclassification is decided upon by the Appointing Authority on the basis of a proposal from the Reclassification Evaluation Board as described in Article 5 below.

3. Within the reclassification exercise, reclassification points shall be awarded in accordance with Article 8 below, representing the individual merits of a temporary agent. Reclassification points shall be accumulated over successive reclassification exercises.

4. But for exceptional circumstances and subject to availability of resources and of budgetary posts, the reclassification of a temporary agent is granted if his or her capital of points reaches or exceeds the indicative reference threshold fixed in accordance with Article 7 below.

5. Following a reclassification, the number of points corresponding to the reclassification threshold shall be deducted from the capital of points accumulated by the temporary agent.

TITLE II: PROCEDURE

Article 5 – Reclassification Evaluation Board

1. The Reclassification Evaluation Board (hereinafter referred to as the “REB”) is in charge of drawing up, for every grade, on the proposal of the supervisor in accordance with Article 8(2) below, a list of temporary agents to be proposed for reclassification to the Appointing Authority.
2. The REB is composed of the Administrative Director, the Head of Operational Support and the heads of units and services of Eurojust. The REB is chaired by the Administrative Director.
3. Meetings of the REB are convened by the Administrative Director. The REB shall meet at least once per year.
4. The REB’s deliberations are only valid if all its members or, failing this, their designated alternates, are present.
5. The opinions of the REB are agreed on by consensus or, in the absence of consensus, by a simple majority vote of the members present. The Administrative Director only takes part in the vote if there is a split decision.
6. The REB can, if it deems such action necessary, question the supervisor of any temporary agent concerned, as well as any other person holding a higher grade than the one held by the temporary agent concerned.
7. Any member of the REB who may be proposed for a reclassification to a specific grade cannot take part in the deliberations relating to the drawing up of the list of temporary agents proposed for reclassification in that grade.

Article 6 - Joint Reclassification Committee

A Joint Reclassification Committee shall be established. It shall be composed of a Chair, with the rank of head of unit, appointed by the Appointing Authority, and two other members: one staff member from the function group administrator (AD) from the Human Resources Unit, and one staff representative appointed by the Staff Committee. For each of the committee members, an alternate shall be appointed in the same way as the Chair and the full members. The rules on the operation and procedure of the Joint Instance provided for in Article 8 of the Yearly Performance Appraisal Decision shall apply *mutatis mutandis*.

Article 7 – Average career; indicative reference threshold of reclassification points

1. The average career for reclassification and the indicative reference threshold of reclassification points shall be determined as follows:

Held grade	Indicative average duration in the grade, in years (average career)	Indicative reference threshold of reclassification points
AD 13	5	11
AD 12	4	9
AD 11	4	9
AD 10	4	9
AD 9	4	9
AD 8	3	7
AD 7	3	7
AD 6	3	7
AD 5	3	6

AST 10	5	11
AST 9	5	11
AST 8	4	9
AST 7	4	9
AST 6	4	9
AST 5	4	9
AST 4	3	7
AST 3	3	7
AST 2	3	7
AST 1	3	6

2. The average career, as determined in paragraph 1, takes into account in particular the development of possibilities of reclassification, the current distribution of temporary agents in the various grades at Eurojust, the number of grades in each function group, and budgetary constraints. It is based on Annex IB to the Staff Regulations, and is subject to a possible revision in accordance with Article 6(4) of the Staff Regulations.

The concept of the average career does not confer any individual right to reclassification which results from seniority in the grade.

3. The indicative reference thresholds of points as determined in paragraph 1 are fixed on the basis of the average career and take into account expected budgetary resources available. If so required due to availability of resources or posts authorised by the budgetary authority, the Appointing Authority shall decide on necessary deviations from these thresholds for a specific reclassification exercise and inform staff accordingly.

Article 8 – Attribution of reclassification points

1. Temporary agents acquire, for every year in the grade under consideration, reclassification points in a range of 0 to 4. Decimal points can only be awarded as multiples of 0.25 points (i.e. 0.25, 0.50, 0.75 points).
2. The supervisor who draws up the annual career development report attributes reclassification points to each temporary agent for the reporting period. This proposal is submitted to the Reclassification Evaluation Board.
3. The number of points attributed represents the merits of temporary agents for the reporting period and shall be related to the outcome of the appraisal carried out in that period in accordance with paragraph 4 below.

The number of points shall further take into account:

- the use of languages in the execution of their duties other than the language for which they have produced evidence of thorough knowledge in accordance with Article 12(2)(e) of the CEOS;
 - where appropriate, the level of responsibility; and
 - where appropriate, the merits generated by activities of general interest carried out for the agency that have not already been taken into account in the estimate of the merits resulting from the career development report.
4. According to the overall summary rating of the career development report on the reporting period, the following number of minimum points should be granted to each temporary agent:
 - 3 points for temporary agents having obtained "Outstanding";
 - 2.25 points for temporary agents having obtained "Very good";
 - 2 points for temporary agents having obtained "Good"; or
 - 1.25 points for temporary agents having obtained "Sufficient".

However, no reclassification point shall be allocated to temporary agents having obtained the appraisals: "Poor" or "Insufficient".

5. Reclassification points are not allocated to temporary agents at grade AST 11.
6. The points allocated for each reporting period contribute to the capital of points, which represents the merit accumulated year after year in the grade under consideration.
7. In case the temporary agent spent less than one year in the grade concerned at the time of beginning of the reclassification exercise, the number of points that are allocated shall be reduced proportionally to the period under consideration.

8. Temporary agents benefiting from parental leave within the meaning of Article 42a of the Staff Regulations, from family leave within the meaning of Article 42b of the Staff Regulations, working part-time within the meaning of Article 55a of the Staff Regulations, or half-time within the meaning of Article 55b of the Staff Regulations, are considered, for the application of this Decision, as being in full-time active employment.

Article 9 - Reclassification points in recognition of duties undertaken for the Staff Committee

On proposal from the Chair of the Staff Committee based on the methods provided for in this Decision, reclassification points can be allocated each year to temporary agents covered by this Decision who have undertaken duties within the Staff Committee. For the purposes of the reclassification exercise, the Staff Committee will be considered to be following the same rules as any unit, service or national desk. The points allocated for duties undertaken within the Staff Committee are adjusted proportionally to the time devoted to the Staff Committee. They will be added to the points obtained in the originating Unit or Service, which will also be adjusted proportionally to the time devoted to the originating Unit or Service.

Article 10 – Reclassification procedure

1. Each head of unit or service, national member, and the Administrative Director has a quota of reclassification points to distribute, equal to double the number of temporary agents referred to in Article 2(1) reporting to him or her, except for the temporary agents in grade AST 11.

Exceptionally, at the request of a head of unit or service, national member or the Administrative Director, and in order to take into account the size or the specific character of the group of temporary agents reporting to him or her as referred to in this paragraph, these quotas can be increased by a maximum of two points by quota, by special and reasoned decision of the Appointing Authority. This decision is communicated to the REB and to the Joint Reclassification Committee.

2. The proposal for attribution of reclassification points to a temporary agent, together with the proposal for attribution of additional points for exceptional merits made by the supervisor in accordance with Articles 8 and 11, respectively, shall be submitted to the REB. On the basis of this proposal, the REB shall formulate a proposal to the Appointing Authority.

3. The temporary agent is informed by the Human Resources Unit of the number of points that the REB proposed granting him or her for the year under consideration and of his or her accumulated capital of points.

4. Within the ten working days that follow the communication provided for in paragraph 3, the temporary agent may lodge an appeal with the Joint Reclassification Committee. Such appeal must be formulated in writing and provide information sufficient to allow the Joint Reclassification Committee to be able to deliver an opinion to the AD on the complaint.

5. The Appointing Authority definitively fixes the number of points allocated to each temporary agent after having taken note of the proposals of the REB and of the possible opinion of the Joint Reclassification Committee, within three months after the communication provided for in paragraph 3 above.

Each temporary agent is notified individually of the final number of points allocated.

The temporary agent may submit to the Appointing Authority a complaint against the notified decision fixing the number of points under Article 90(2) of the Staff Regulations.

6. On the basis of this allocation of points, the capital of points of each temporary agent is compared with the indicative reclassification threshold fixed in accordance with Article 7 above corresponding to his or her grade and function group. If his or her capital of points reaches or exceeds the indicative reference threshold, reclassification shall be granted, in accordance with Article 4(4). To grant the first reclassification, the temporary agent must also satisfy the conditions stated in Article 45(2) of the Staff Regulations.

7. In case the number of temporary agents with a capital of points equal to or above the relevant reclassification threshold exceeds the number of temporary agents who can actually be promoted given the availability of posts according to the annual establishment plan, the REB shall adopt a reasoned recommendation to the Appointing Authority regarding who of these temporary agents should be reclassified, taking into account in particular seniority in the grade and factors relating to equal opportunities.

8. The Appointing Authority decides on the list of names of the temporary agents to be reclassified. This list is published internally. The decision on reclassification can be contested in accordance with Article 90(2) of the Staff Regulations.

TITLE III: SPECIAL CASES

Article 11 – Exceptional merit

1. To acknowledge the exceptional merits of certain temporary agents, heads of units and services, national members and the Administrative Director have a quota of additional points, limited to 10% of the quota as defined in Article 10(1) above.

2. The attribution of these points is in addition to the attribution of points provided for in Article 8 above. However, despite exceptional point attribution, the allocated point total cannot exceed the limit of 4 points per person fixed by Article 8(1).

3. On the recommendation of the temporary agent's supervisor, the REB can propose a reclassification of the temporary agent who would not yet have reached the indicative reference threshold, but who has shown particularly high merit, attested by the last career development report. For its adoption, the REB must agree unanimously with this proposal. If the Appointing Authority takes such a reclassification decision, it shall be communicated to the Joint Reclassification Committee.

Article 12 – Deferral of reclassification exercise

On the recommendation of his or her supervisor, the REB can propose to defer to the following reclassification exercise the reclassification of a temporary agent who would have reached the indicative reference threshold, but whose last career development report is particularly negative at the level of efficiency, abilities and conduct in the service. For its adoption, the REB must agree unanimously with this proposal. If the Appointing Authority takes such a decision on deferral of reclassification, it shall be communicated to the Joint Reclassification Committee.

Article 13 – Constitution of an initial capital of points

1. Each staff member who has been in service at Eurojust before the first promotion exercise is carried out receives 1.25 points per full year. For periods shorter than one year the number of points is calculated pro rata on the basis of the number of months and rounded down to the nearest quarter point.

2. In the event that a temporary agent or an official from an institution, body or agency takes up service at Eurojust, the years of service worked before taking up service at Eurojust are taken into consideration to reconstitute an initial capital, if:

- a) these years were worked with a maximum interruption of one year between the various periods; and
- b) the period of service took place in the same function group, and at the same grade, for temporary agents recruited before 01 May 2004 according to Article 13(1) of Annex XIII to the Staff Regulations.

This initial capital of points is made up of 2 points per year of seniority in the grade for the period prior to the entry into service at Eurojust. For the years before the year on the basis of which the first reclassification exercise is carried out, the temporary agent shall receive only 1 point per year of seniority. The total of the reconstituted points cannot exceed the indicative reference threshold fixed at Article 7 above for the corresponding grade minus 4 points.

TITLE IV: TERMINATION OF RECLASSIFICATION EXERCISE

Article 14 –Effective date of the reclassification

The Appointing Authority shall reclassify a temporary agent with effect from 01 January of the year under consideration, provided that the conditions provided for in Article 3(1) and 3(3) are met.

Article 15 - Point transfer

In the event of reclassification, when the temporary agent has a total of points higher than the indicative reference threshold for his or her grade, the number of points exceeding the threshold is carried forward as an initial capital of points for the following grade of the same function group.

TITLE V: FINAL PROVISIONS

Article 16 – Transparency and evaluation of the reclassification exercise

To guarantee maximum transparency, the Joint Reclassification Committee is instructed to publish a report at the end of each reclassification exercise.

To allow the Joint Reclassification Committee to proceed, the Human Resources Unit is responsible for communicating information considered useful by the Joint Reclassification Committee and information requested by its Chair.

The report will contain recommendations for the attention of the Appointing Authority concerning the preparation of the next reclassification exercise. The report will contain an obligatory analysis of exceptional situations, in particular those provided for in Articles 12 and 13(2), in compliance with the rules on personal data protection.

The report will be communicated to the staff of Eurojust by the Human Resources Unit.

Article 17 – Entry into force

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

Done at The Hague on 8 June 2012,

For Eurojust



Klaus Rackwitz

The Administrative Director