



Decision of Eurojust

Laying down rules for implementing article 7(2) of the Staff Regulations as regards temporary occupation of management posts

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 (EEC, Euratom, ECSC) No 259/68 as amended, and in particular Article 7(2) of the Staff Regulations and Article 10 of the CEOS,

Having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime, as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust, and in particular Articles 29 and 30 thereof,

Having regard to the Eurojust Decision 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 the consultation of the Staff Committee of Eurojust and in agreement with the Commission pursuant to Article 110(1) of the Staff Regulations,

Whereas:

- (1) Rules should be laid down for the application of Article 7(2) of the Staff Regulations, which provides that the Appointing Authority may call upon staff members to occupy a post in their function group in a grade which is higher than their own grade.
- (2) Such temporary postings are limited to one year. Exceptions to the time-limit of one year may be made in cases aimed at replacing a staff member who is seconded to another post in the interests of the service, called up for military service or absent on protracted sick leave. Exceptions may also be made when it is considered necessary in the interest of the service and to ensure fair treatment of the relevant staff member. Exceptionally and upon due justification, the Appointing Authority may extend the temporary posting beyond one year.
- (3) It is necessary to adopt rules on temporary postings on the basis of Article 7(2) of the Staff Regulations which recognise the efforts made by staff members to temporarily ensure the continuity of the service and the principle of equal treatment.



- (4) Article 7(2) of the Staff Regulations should apply only where the staff member is called upon to assume temporarily duties which entail responsibilities substantially greater than those involved in his/her own post. Only the difference in the level of responsibilities between non-management and management (not advisory) posts and between management posts of different levels can be considered substantial for the purpose of applying Article 7(2) of the Staff Regulations.
- (5) The rationale of Article 7(2) of the Staff Regulations is to grant to the staff member who takes up duties entailing responsibilities substantially greater than those involved in his/her own post for a substantial period a remuneration which corresponds to those greater responsibilities.
- (6) It is necessary to ensure that Article 7(2) of the Staff Regulations is applied in an appropriate manner in view of the career system which came into effect on 1 May 2004, in which there is a high degree of separation of grade and duties.
- (7) Deputising arrangements are to be distinguished from temporary postings and are not covered by this Decision. Where a staff member is prevented from exercising his/her functions for a period of up to three months, the staff member who deputises for him/her during this period exercises those functions in an *acting* capacity. A deputising arrangement does not lead to any entitlement to a differential allowance. In the case of a temporary management posting, the staff member is manager *ad interim*. The latter merits a formal decision by the Appointing Authority, the former does not.

HAS DECIDED AS FOLLOWS:

Article 1

Posts to which temporary postings may be made

- (1) This Decision shall apply to Eurojust staff members recruited as temporary agents within the meaning of Article 2(a) and 2(b) of the CEOS.
- (2) The middle and senior management posts that a staff member may be called upon to occupy on a temporary basis shall be:
 - (a) Administrative Director in grade AD 14;
 - (b) Head of operational support in grade AD 13;
 - (c) Head of unit in grades AD 9 to AD 12.



Article 2
Conditions for temporary postings

- (1) Temporary postings may be made:
 - (a) where a new or vacant management post cannot be filled in the short term;
 - (b) to replace a staff member who is seconded to another post in the interest of the service, is called up for military service or is absent on protracted sick leave or for other reasons preventing him/her from exercising his function.
- (2) The above-mentioned situations shall as a rule involve periods lasting longer than three months. Only a full-time and uninterrupted absence of the job holder can give rise to a temporary posting.
- (3) Only established staff members who are not serving their probationary period can be called upon to temporarily occupy a post within the meaning of Article 7(2) SR.

Article 3
Reference grade

For the purpose of calculating the differential allowance, the "reference grade" for a temporary posting will be fixed as follows:

- (1) As regards the post of Administrative Director as defined in Article 1(2)(a), the reference grade shall be grade AD 14.
- (2) As regards the post of Head of operational support as defined in Article 1(2)(b), the reference grade shall be AD 13.
- (3) As regards head of unit posts as defined in Article 1(2)(c), the reference grade shall be as a rule:
 - (a) where the level of the post is fixed at a single grade, this grade is the reference grade for the purpose of calculating the differential allowance;
 - (b) where the post is published at a range of grades, the lowest grade in the range at which the post is published, as follows:
 - grade AD 9 for the range AD 9 / AD 12
 - (c) where the post is filled by transfer in the interest of the service or where the post is not vacant, grade AD 9 as set by the Appointing Authority after consultation of the relevant Unit.



Article 4
Differential allowance

From the beginning of the fourth month of a temporary posting, the staff member concerned shall receive a differential allowance equal to the difference in current remuneration of the staff member and the remuneration according to the level of the temporary posting, as follows:

- (1) If the staff member is in the grade immediately below the reference grade, the differential allowance shall be equal to the difference between the remuneration of the staff member throughout the relevant period and the remuneration he/she would receive if he/she was promoted to the reference grade¹.
- (2) In duly justified circumstances where the staff member is in one of the grades below the grade immediately below the reference grade, as the differential allowance cannot be calculated by analogy to a promotion, it shall be equal to the difference between the remuneration of the staff member throughout the relevant period and the remuneration he/she would receive if he/she was newly recruited in the reference grade.² The second step shall be awarded under the conditions laid down in the rules on step classification upon recruitment.
- (3) If the staff member is in a grade equal to or above the reference grade, except where the staff member already receives the benefit on the basis of his/her post of assignment, the remuneration of the staff member is increased according to Articles 44 and 46 of the Staff Regulations.

The increase in remuneration according to Articles 44 and 46 of the Staff Regulations will be calculated either on the basis of the grade of the staff member concerned, or on the basis of the reference grade of the post that the staff member temporarily occupies, depending on which option is the most favourable for the staff member concerned³.

¹ Taking account of the provision regarding non-cumulation, as provided in Conclusion 240/05 of the Heads of Administration (see Administrative Notice N° 48-2005), this remuneration will be increased according to Articles 44 and 46 of the Staff Regulations.

² Ibid.

³ The amount of the benefit shall be calculated in accordance with the method laid down in Conclusion 240/05 of the Heads of Administration (see Administrative Notice n° 48-2005)



Article 5
Management experience

Management experience acquired through a temporary posting shall be taken into account for eligibility purposes in the context of applications for management positions.

Article 6
Successive periods of temporary posting

Where the same staff member is the subject of two or more temporary postings in respect of the same functions and those postings are consecutive, the second temporary posting shall be considered as a continuation of the first and the differential allowance shall not be discontinued during the first three months of the second temporary posting.

For the purposes of this provision, a subsequent posting shall be considered to be consecutive if it begins no longer than three months after the end of the previous posting.

Article 7
Procedure for temporary postings

- (1) Where the conditions in Article 2 are met, the Unit concerned may submit a proposal for a temporary posting, stating the reasons and providing all relevant information. The temporary posting is proposed to the Appointing Authority after the Human Resources Unit has examined the application.
- (2) Decisions to temporarily fill a middle management post shall be taken by the Appointing Authority.
- (3) The effective date of a temporary posting is fixed by the Appointing Authority in the temporary posting decision pursuant to Article 7(2) of the Staff Regulations, taking account of the proposal submitted by the Unit concerned and the result of the examination by the Human Resources Unit.
- (4) Where the proposal for a temporary posting follows on from a period of deputising, the effective date is backdated to the date on which the deputising duties began.
- (5) Abolition of the post on which a temporary posting has been made as a result of an amendment to the organisation chart automatically entails termination of the temporary posting.



EUROJUST

The European Union's Judicial Cooperation Unit

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Article 8
Date of application

This Decision shall apply from the date following that of its adoption.

Done at The Hague on 5 February 2014

For Eurojust,

The Administrative Director,

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

Klaus Rackwitz