II

(Information)

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPOL

FINANCIAL REGULATION APPLICABLE TO EUROPOL

(2010/C 281/01)

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THE MANAGEMENT BOARD,

Having regard to the Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol) with a view to reinforcing the fight against serious crime (8706/3/08) ([1]), in particular Articles 37(3)(9)(e) and Article 44 thereof,

Having regard to the Commission Regulation (EC, Euratom) No. 2343/2002 ([2]) of 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of the Council Regulation (EC, Euratom) No 1605/2002 ([3]) on the Financial Regulation applicable to the general budget of the European Communities, as amended by the Commission Regulation (EC, Euratom) No. 652/2008 ([4]),

Whereas:

(1) Following the amendment of the framework Financial Regulation by the Commission Regulation (EC, Euratom) No 652/2008 of 9 July 2008, it is necessary to adapt Europol's financial rules in order to align its provisions with the amended framework Financial Regulation.

(2) Europol has legal personality and has full responsibility to draw up and to implement its own budget.

(3) For the purpose of establishing and implementing the budget of Europol, the four fundamental principles of budgetary law (unity, universality, specification, annuality) and the principles of budgetary accuracy, equilibrium, unit of account, sound financial management and transparency must be reasserted.

(4) The principle of sound financial management should be defined by reference to the principles of economy, efficiency and effectiveness, and compliance with those principles checked by means performance indicators established per activity and measurable in such a way that results can be assessed.

([1]) OJ L 121, 15.5.2009, p. 37
([2]) OJ L 357, 31.12.2002, p. 72.
([3]) OJ L 248, 16.9.2002, p. 1.
([4]) OJ L 181, 10.7.2008, p. 23.

(5) For the sake of compliance with the principles of transparency and sound financial management, Europol should have transparent procurement procedures, effective internal controls; a system of presentation of the accounts which is separate from its other activities and external audit.

(6) Effective control systems must be established to protect the financial interest of the European Community.

(7) Like the Institutions of the Community, Europol is not allowed to raise loans, in accordance with Article 14 of the general Financial Regulation.

(8) It is necessary to define the rules on drawing up and implementing Europol's budget, as well as the rules governing the presentation and the auditing of the accounts.

(9) It is also necessary to define the powers and responsibilities of the Management Board of Europol, the Authorising Officers, the Accounting Officer, the Imprest Administrator, the Commission and Europol Internal Auditors. The Authorising Officers, including the Authorising Officer, the Authorising Officers by delegation and by sub-delegation are fully responsible for all the revenue and expenditure operations executed under their authority and must be held accountable for their action, including where necessary through disciplinary proceedings.

(10) The timetable establishing Europol's budget, presenting the accounts and granting discharge should be aligned to the equivalent provisions of the general Financial Regulation.

(11) Since Europol is financed by an annual subsidy charged to the Community budget, Europol must strictly observe the same requirements as the Institutions of the Community in the award of public contracts and grants, insofar as such contracts and grants are authorized by the instruments setting it up; in this respect a reference to the relevant provisions of the general Regulation is sufficient.

(12) The Financial Regulation must reflect the specific requirements of Europol as a police cooperation body. It should take full account of the sensitive operations carried out by Europol, in particular operational, strategic and classified information.

(13) The European Commission has consented to this Regulation including the departure from the framework Financial Regulation,

HAS ADOPTED THIS REGULATION:

TITLE I

SUBJECT MATTER

Article 1

This Regulation lays down the main principles and rules governing the establishment and implementation of the budget of the European Police Office.

Article 2

For the purposes of this Regulation:

1. 'Europol Decision' shall mean the Council Decision 2009/371/JHA of 6 April 2009 … establishing a European Police Office;

2. 'Europol' shall mean the European Police Office as set up by the Europol Decision establishing Europol as a body of the European Union;

3. 'Management Board' shall mean the organ as referred to in Article 36 and Article 37 of the Europol Decision;

4. 'Director' shall mean the person referred to in Article 36 and Article 38 of the Europol Decision;

5. 'Staff' shall mean the Director as well as the staff referred to in Article 39 of the Europol Decision;

6. 'Budget' shall mean the budget of Europol as referred to in Article 42 of the Europol Decision;

7. 'Budgetary authority' shall mean the European Parliament and the Council of the European Union;

8. 'General Financial Regulation' shall mean the Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities;

9. 'Framework Financial Regulation' shall mean the Commission Regulation (EC, Eurotom) No 2343/2002 of the 23 December 2002 on the framework Financial Regulation for the bodies referred to in Article 185 of Council Regulation (EC, Euratom) No 1605/2002 on the Financial Regulation applicable to the general budget of the European Communities, as revised by Commission Regulation N 652/2008;

10. 'Implementing rules to the general Financial Regulation' shall mean the detailed rules for the implementation of Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities as laid down in Commission Regulation (EC, Euratom) No 2342/2002 of 23 December 2002;

11. 'Europol Financial Implementing Rules' shall mean the implementing rules to this Financial Regulation;

12. 'Europol Financial Rules' shall mean this Financial Regulation and the Europol Financial Implementing Rules;

13. 'Staff Regulations' shall mean regulations and rules applicable to officials and other servants of the European Communities;

14. 'Europol operational, strategic and classified information' shall be interpreted as follows:

— Operational information shall mean any information in any form related to the direct fulfilment of Europol's tasks as outlined in Article 5 of the Europol Decision, including but not limited to data collected, stored, processed in and/or exchanged from Europol's Information Processing Systems as defined in Article 10 of the Europol Decision and the Index Function as defined in Article 15 of the Europol Decision;

— Strategic information shall mean any information in any form related to the direct fulfilment of Europol's tasks as outlined in Article 5 of the Europol Decision and which does not contain personal data and which is linked to either crime or intelligence;

— Classified information shall mean any information and material in any form, an unauthorised disclosure of which could cause varying degrees of prejudice to the essential interests of Europol or of one or more Member States, and that requires the application of appropriate security measures as defined in Article 7(2)(b) of the Rules on the Confidentiality of Europol information.

TITLE II

BUDGETARY PRINCIPLES

Article 3

The establishment and implementation of the budget shall comply with the principles of unity and budget accuracy, annuality, equilibrium, unit of account, universality, specification and sound financial management, which requires effective and efficient internal control and transparency as provided for in this Regulation.

CHAPTER 1

Principles of unity and of budget accuracy

Article 4

The budget is the instrument which, for each financial year, forecasts and authorises the revenue and expenditure considered necessary for Europol.

Article 5

The budget shall comprise:

(a) own revenue consisting of all fees and charges which Europol is authorised to collect by virtue of the tasks entrusted to it, and any other revenue;

(b) revenue made up of any financial contributions of the host Member State;

(c) a subsidy granted by the European Communities;

(d) revenue assigned to specific items of expenditure in accordance with Article 19(1);

(e) the expenditure of Europol, including administrative expenditure.

Article 6

1. No revenue shall be collected and no expenditure effected unless booked to a line in the budget.

2. An appropriation must not be entered in the budget if it is not for an item of expenditure considered necessary.

3. No expenditure may be committed or authorised in excess of the appropriations authorised by the budget.

CHAPTER 2

Principle of annuality

Article 7

The appropriations entered in the budget shall be authorised for one financial year, which shall run from 1 January to 31 December.

Article 8

1. The budget shall contain non-differentiated appropriations and, where justified by operational needs, differentiated appropriations. The latter shall consist of commitment appropriations and payment appropriations.

2. Commitment appropriations shall cover the total cost of the legal commitments entered into during the current financial year.

3. Payment appropriations shall cover payments made to honour the legal commitments entered into in the current financial year and/or earlier financial years.

4. Administrative appropriations shall be non-differentiated. Administrative expenditure arising from contracts covering periods that extend beyond the financial year, either in accordance with local practice or relating to the supply of equipment, shall be charged to the budget of the financial year in which it is effected.

Article 9

1. The revenue of Europol referred to in Article 5 shall be entered in the accounts for the financial year on the basis of the amounts collected during the financial year.

2. The revenue of Europol shall give rise to an equivalent amount of payment appropriations.

3. The appropriations authorised in the budget for a given year may be used solely to cover expenditure committed and paid in that financial year, and to cover amounts due against commitments from preceding financial years.

4. Commitments shall be entered in the accounts on the basis of the legal commitments entered into up to 31 December.

5. Payments shall be entered in the accounts for a financial year on the basis of the payments effected by the accounting officer by 31 December of that year at the latest.

Article 10

1. Appropriations which have not been used at the end of the financial year for which they were entered shall be cancelled.

However, they may, by decision of the Management Board taken not later than 15 February, be carried over to the next financial year only, in accordance with paragraphs 2 to 7.

2. Appropriations relating to staff expenditure may not be carried over.

3. Commitment appropriations and non-differentiated appropriations not yet committed at the close of the financial year may be carried over in respect of amounts corresponding to commitment appropriations for which most of the preparatory stages of the commitment procedure, to be defined in the Europol Financial Implementing Rules, have been completed by 31 December; these amounts may then be committed up to 31 March of the following year.

4. Payment appropriations may be carried over in respect of amounts needed to cover existing commitments or commitments linked to commitment appropriations carried over, when the appropriations provided for the relevant lines in the budget for the following financial year do not cover requirements. Europol shall first use the appropriations authorised for the current financial year and shall not use the appropriations carried over until the former are exhausted.

5. Non-differentiated appropriations corresponding to obligations duly contracted at the close of the financial year shall be carried over automatically to the following financial year only.

6. Appropriations carried over which have not been committed by 31 March of year *n+1* shall be automatically cancelled. Appropriations carried over in this way shall be identified in the accounts.

7. The appropriations available at 31 December arising from the assigned revenue referred to in Article 19 shall be carried over automatically. The appropriations available corresponding to assigned revenue carried over must be used first.

By 1 June of the year *n+1* at the latest, Europol shall inform the Commission about the implementation of the assigned revenue carried over.

Article 11

Where amounts are decommitted, as a result of total or partial non-implementation of the actions for which they were earmarked, in any financial year after that in which the appropriations were committed, the appropriations concerned shall be cancelled.

Article 12

The appropriations entered in the budget may be committed with effect from 1 January, once the budget has become definitive.

Article 13

1. As from 15 November of each year, routine administrative expenditure may be committed in advance against the appropriations provided for the following financial year. Such commitments may not, however, exceed one quarter of the appropriations decided by the Management Board on the corresponding budget line for the current financial year. They may not apply to new expenditure of a kind not yet approved in principle in the last budget duly adopted.

2. Expenditure which must be paid in advance, for example rents, may give rise to payments from 1 December onwards to be charged to the appropriations for the following financial year. In this case, the limit referred to in paragraph 1 shall not apply.

Article 14

1. If the budget has not been finally adopted at the beginning of the financial year, the following rules shall apply to commitment and payment of expenditure which it has been possible to book to a specific line in the budget as part of implementation of the last budget duly adopted.

2. Commitments may be made per chapter up to a maximum of one quarter of the total appropriations authorised in the chapter in question for the previous financial year, plus one twelfth for each month which has elapsed. Payments may be made monthly per chapter up to a maximum of one twelfth of the appropriations authorised in the chapter in question for the previous financial year. The limit of the appropriations provided for in the statement of estimates of revenue and expenditure may not be exceeded.

3. At the request of the Director, if the continuity of action by Europol and management needs so require, the Management Board may simultaneously authorise two or more provisional twelfths for both commitments and payments over and above those automatically made available by the provisions of paragraphs 1 and 2. The additional twelfths shall be authorised in full and shall not be divisible.

CHAPTER 3

Principle of equilibrium

Article 15

1. The budget revenue and payment appropriations must be in balance.

2. Commitment appropriations may not exceed the amount of the Community subsidy, plus own revenue and any other revenue referred to in Article 5.

3. Europol may not raise loans.

4. Community funds paid to Europol shall constitute for its budget a balancing subsidy which shall count as pre-financing within the meaning of Article 81(1)(b)(i) of the general Financial Regulation.

5. Europol shall implement rigorous cash management, taking due account of assigned revenue in order to ensure that its cash balances are limited to duly justified requirements. With its payment requests, Europol shall submit detailed and updated forecasts on its real cash requirements throughout the year, including information on assigned revenue.

Article 16

1. If the balance of the outturn account within the meaning of Article 81 is positive, it shall be repaid to the Commission up to the amount of the Community subsidy paid during the year. The part of the balance exceeding the amount of the Community subsidy paid during the year shall be entered in the budget for the following financial year as revenue.

Europol shall provide, by 31 March the year *n* at the latest, an estimate of the operating surplus from the year *n-1*, which is to be returned to the Community budget later in year *n*, in order to complete the information already available concerning the surplus of the year *n-2*. This information shall be duly taken into account by the Commission when assessing the financial needs of Europol for the year n+1.

The difference between the Community subsidy entered in the general budget and that actually paid to the body shall be cancelled.

2. If the balance of the outturn account provided for in Article 81 is negative, it shall be entered in the budget for the following financial year.

3. The revenue or payment appropriations shall be entered in the budget during the budgetary procedure using the letter of amendment procedure or, while budget implementation is under way, by means of an amending budget.

CHAPTER 4

Principle of unit of account

Article 17

The budget shall be drawn up and implemented in euro and the accounts shall be presented in euro. However, for cash-flow purposes, the accounting officer and, in the case of imprest accounts, imprest administrators shall be authorised to carry out operations in national currencies as laid down in the Europol Financial Rules.

CHAPTER 5

Principle of universality

Article 18

Total revenue shall cover total payment appropriations, subject to Article 19. All revenue and expenditure shall be entered in full without any adjustment against each other, subject to Article 21.

Article 19

1. The following items of revenue shall be used to finance specific items of expenditure:

(a) revenue earmarked for a specific purpose, such as income from foundations, subsidies, gifts and bequests;

(b) contributions to Europol's activities from Member States, non-member countries or miscellaneous bodies, insofar as this is provided for in the agreement concluded between Europol and the Member States, non-member countries or bodies in question;

(c) revenue from third parties in respect of goods, services or work supplied at their request, with the exception of fees and charges referred to in Article 5(a);

(d) proceeds from the supply of goods, services and works for Community institutions or other Community bodies;

(e) revenue arising from the repayment of amounts wrongly paid;

(f) proceeds from the sale of vehicles, equipment, installations, materials, and scientific and technical apparatus, which are being replaced or scrapped when the book value is fully depreciated;

(g) insurance payments received;

(h) revenue from payments connected with lettings;

(i) revenue from the sale of publications and films, including those on an electronic medium.

1a. The basic act applicable may also assign the revenue for which it provides to specific items of expenditure.

2. All items of revenue within the meaning of paragraph 1 points (a) to (d) shall cover all direct or indirect expenditure incurred by the activity or purpose in question.

3. The budget shall carry lines to accommodate the categories of assigned revenue referred to in paragraphs 1 and 1a and wherever possible shall indicate the amount.

Article 20

The Director may accept any donation made to Europol, such as foundations, subsidies, gifts and bequests, subject to the prior authorisation of the Management Board, which shall take a decision within two months of the date on which the request is submitted to it. If the Management Board fails to take a decision within that period, the donation shall be deemed accepted.

Article 21

1. The following deductions may be made from payment requests, invoices or statements, which shall then be passed for payment of the net amount:

(a) penalties imposed on parties to procurement contracts or beneficiaries of a grant;

(b) discounts, refunds and rebates on individual invoices and payment requests;

(c) interest generated by pre-financing payments.

2. The cost of products or services provided to Europol shall be charged to the budget for the full ex-tax amount, where they incorporate taxes refunded:

(a) either by the Member States pursuant to the Protocol on Privileges and Immunities of the European Communities, by the Host State on the basis of the Seat Agreement or on the basis of other relevant agreements;

(b) or by a Member State or non-member country on the basis of other relevant agreements. Any national taxes temporarily borne by Europol under the first subparagraph shall be entered in a suspense account until they are refunded by the State concerned.

3. Any negative balance shall be entered in the budget as expenditure.

4. Adjustments may be made in respect of exchange differences occurring in the implementation of the budget. The final gain or loss shall be included in the balance for the year.

CHAPTER 6

Principle of specification

Article 22

The appropriations in their entirety shall be earmarked for specific purposes by title and chapter; the chapters shall be further subdivided into articles and items.

Article 23

1. The Director may make transfers from one chapter to another and from one article to another without limit and from one title to another up to a maximum of 10 % of the appropriations for the financial year shown on the line from which the transfer is made.

2. Beyond the limit referred in paragraph 1, the Director may propose to the Management Board transfers of appropriations from one title to another. The Management Board shall have three weeks in which to oppose such transfers. After this time-limit they shall be deemed to be adopted.

3. Proposals for transfers and transfers carried out under paragraphs 1 and 2 shall be accompanied by appropriate and detailed supporting documents showing the implementation of appropriations and estimates of requirements up to the end of the financial year, both for the headings to be credited and for those from which the appropriations are drawn.

4. The Director shall inform the Management Board as soon as possible of all transfers made. The Director shall inform the budgetary authority of all transfers carried out under paragraph 2.

Article 24

1. Appropriations may be transferred only to budget lines for which the budget has authorised appropriations or carries a token entry (p.m.).

2. Appropriations corresponding to assigned revenue may be transferred only if they are used for the purpose to which the revenue is assigned.

CHAPTER 7

Principle of sound financial management

Article 25

1. Budget appropriations shall be used in accordance with the principle of sound financial management, that is to say, in accordance with the principles of economy, efficiency and effectiveness.

2. The principle of economy requires that the resources used by Europol for the pursuit of its activities shall be made available in due time, in appropriate quantity and quality and at the best price. The principle of efficiency is concerned with the best relationship between resources employed and results achieved. The principle of effectiveness is concerned with attaining the specific objectives set and achieving the intended results.

3. Specific, measurable, achievable, relevant and timed objectives shall be set for all sectors of activity covered by the budget. Achievement of those objectives shall be monitored by performance indicators for each activity and information shall be provided to the Management Board by the Director. This information shall be provided annually and at the latest in the documents accompanying the preliminary draft budget.

4. In order to improve decision-making, Europol shall regularly carry out ex ante and ex post evaluations of programmes or activities. Such evaluations shall be applied to all programmes and activities which entail significant spending and evaluation results shall be sent to the Management Board.

5. Where monitoring or reporting under this Article concerns 'Europol operational, strategic and classified information', the Director may provide for such information to be measured and reported on separately to the Management Board, which shall be entitled to take the final decision regarding whether or not such information should be included in any published document.

Article 25a

1. The budget shall be implemented in compliance with effective and efficient internal control.

2. For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of the management and designed to provide reasonable assurance of achieving the following objectives:

(a) effectiveness, efficiency and economy of operations;

(b) reliability of reporting;

(c) safeguarding of assets and information;

(d) prevention and detection of fraud and irregularities;

(e) adequate management of the risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes as well as the nature of the payments concerned.

CHAPTER 8

Principle of transparency

Article 26

1. The budget shall be drawn up and implemented and the accounts presented in compliance with the principle of transparency.

2. A summary of the budget and amending budgets, as finally adopted, shall be published in the *Official Journal of the European Union* within three months of their adoption.

The summary shall show the five main revenue budget lines, the main expenditure budget lines for the administrative and operational budget, the establishment plan and an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts. It shall also indicate the figures for the previous year.

3. The budget including the establishment plan and amending budgets, as finally adopted, as well as an indication of the number of contract staff expressed in full-time equivalents for which appropriations are budgeted, and seconded national experts, shall be transmitted for information to the budgetary authority, the Court of Auditors and the Commission, and shall be published on Europol's Internet site within four weeks of their adoption.

4. Europol shall make available, on its Internet site, information on the beneficiaries of funds deriving from its budget, including experts contracted pursuant to Article 74b. The published information shall be easily accessible, transparent and comprehensive. This information shall be made available with due observance of the requirements of confidentiality and security, in particular the protection of personal data laid down in Regulation (EC) No 45/2001 of the European Parliament and of the Council [1].

Where information is published only in anonymous form, Europol shall, upon request, provide information on the beneficiaries concerned to the European Parliament in an appropriate manner.

TITLE III

ESTABLISHMENT AND STRUCTURE OF THE BUDGET

CHAPTER 1

Establishment of the budget

Article 27

1. The budget shall be established in accordance with the Europol Decision.

2. In accordance with the Europol Decision, Europol shall send the Commission a provisional draft estimate of its revenue and expenditure and the general guidelines underlying that estimate by 10 February each year and the final draft estimate by 31 March each year at the latest.

3. The estimate of revenue and expenditure of Europol shall include:

(a) an establishment plan setting the number of permanent and temporary posts authorised within the limits of the budget appropriations, by grade and by category;

(b) where there is a change in the number of persons in post, a statement justifying the request for new posts;

(c) a quarterly estimate of cash payments and receipts.

(d) information on the achievement of all previously set objectives for the various activities as well as new objectives measured by indicators.

Evaluation results shall be consulted and referred to as evidence of the likely merits of an increase or decrease of Europol's proposed budget in comparison with its budget for year *n*.

4. Europol shall send to the Commission and the budgetary authority by 31 March each year at the latest the following:

(a) its draft work programme;

[1] OJ L 8, 12.1.2001, p. 1.

(b) its updated multi-annual staff policy plan, established in line with the guidelines set by the Commission;

(c) information on the number of officials, temporary and contract staff as defined in the Staff Regulations and the Conditions of Employment of Other Servants (hereinafter 'the European Staff Regulations') for the year *n-1* and n as well as an estimate for the year *n+1*;

(d) information on contributions in kind granted by the host Member State to Europol unless such disclosure would result in the release of 'Europol operational, strategic and/or classified information';

(e) an estimate of the balance of the outturn account within the meaning of Article 81 for the year *n-1*.

5. As part of the procedure for adopting the general budget, the Commission shall send Europol's statement of estimates to the budgetary authority and propose the amount of the subsidy for Europol and the number of staff it considers that Europol needs. The Commission shall provide the establishment plan of Europol and for an estimate of the number of contract staff expressed in full-time equivalents for which appropriations are proposed.

6. The budgetary authority shall adopt the establishment plan of Europol and any subsequent amendment thereto in accordance with Article 32(1). The establishment plan shall be published in an annex to Section III- Commission – of the general budget.

7. The budget and the establishment plan shall be adopted by the Management Board. They become definitive after final adoption of the general budget setting the amount of the subsidy and the establishment plan and if necessary the budget and the establishment plan shall be adjusted accordingly.

Article 28

Any amendment to the budget, including the establishment plan, shall be the subject of an amending budget adopted by the same procedure as the initial budget, in accordance with the provisions of the Europol Decision and Article 27.

CHAPTER 2

Structure and presentation of the budget

Article 29

The budget shall comprise a statement of revenue and a statement of expenditure.

Article 30

In so far as it is justified by the nature of Europol's activities, the statement of expenditure must be set out on the basis of a nomenclature with a classification by purpose. This nomenclature shall be determined by Europol and shall make a clear distinction between administrative appropriations and operating appropriations.

Article 31

The budget shall show:

1. in the statement of revenue:

(a) the estimated revenue of Europol for the financial year in question;

(b) the estimated revenue for the preceding financial year and the revenue for year *n-2;*

(c) appropriate remarks on each revenue line;

2. in the statement of expenditure:

(a) the commitment and payment appropriations for the financial year in question;

(b) the commitment and payment appropriations for the preceding financial year, and the expenditure committed and the expenditure paid in year *n-2*;

(c) a summary statement of the schedule of payments due in subsequent financial years to meet budget commitments entered into in earlier years;

(d) appropriate remarks on each subdivision.

Article 32

1. The establishment plan referred to in Article 27 shall show, next to the number of posts authorised for the financial year, the number authorised for the preceding year and the number of posts actually filled. It shall constitute an absolute limit for Europol; no appointment may be made in excess of the limit set. However, save in the case of grades AD16, AD15, AD14 and AD13, the Management Board may modify the establishment plan by up to 10 % of posts authorised, subject to two conditions:

(a) that the volume of staff appropriations corresponding to a full financial year is not affected;

(b) that the limit of the total number of posts authorised by the establishment plan is not exceeded.

2. By way of derogation from the second subparagraph of paragraph 1, the effects of part-time work authorised by the appointing authority in accordance with the Staff Regulations may be offset by other appointments. Where a staff member requests the withdrawal of the authorisation before expiry of the granted period, Europol shall take appropriate measures to respect the limit referred to in point (b) of paragraph 1 as soon as possible.

TITLE IV

IMPLEMENTATION OF THE BUDGET

CHAPTER 1

General provisions

Article 33

The Director shall perform the duties of authorising officer. He/she shall implement the revenue and expenditure of the budget in accordance with the Europol Financial Rules, on his/her own responsibility and within the limits of the appropriations authorised.

Without prejudice to the responsibilities of the authorising officer as regards prevention and detection of fraud and irregularities, Europol shall participate in fraud prevention activities of the European Anti-fraud Office.

Article 34

1. The Director may delegate his/her powers of budget implementation to staff of Europol covered by the 'Staff Regulations', in accordance with the conditions laid down by the Europol Financial Rules adopted by the Management Board. Those so empowered may act only within the limits of the powers expressly conferred upon them.

2. The delegatee may subdelegate the powers received as provided for in the Europol Financial Implementing Rules referred to in Article 99. Each act of subdelegation shall require the explicit agreement of the Director.

Article 35

1. All financial actors within the meaning of Chapter 2 of this Title and any other person involved in budget implementation, management, audit or control shall be prohibited from taking any measures which may bring their own interests into conflict with those of Europol. Should such a case arise, the person in question must refrain from such measures and refer the matter to the competent authority.

2. There is a conflict of interests where the impartial and objective exercise of the functions of a person referred to in paragraph 1 is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other shared interest with the beneficiary.

3. The competent authority referred to in paragraph 1 shall be the immediate superior of the member of staff concerned. If the member of staff is the Director, the competent authority shall be the Management Board.

Article 36

1. The budget shall be implemented by the Director in the departments placed under his/her authority.

2. Technical expertise tasks and administrative, preparatory or ancillary tasks involving neither the exercise of public authority nor the use of discretionary powers of judgement may be entrusted by contract to external private-sector entities or bodies, where this proves to be indispensable.

CHAPTER 2

Financial actors

Section 1

Principe of segregation of duties

Article 37

The duties of authorising officer and accounting officer shall be segregated and mutually incompatible.

Section 2

Authorising officer

Article 38

1. The authorising officer shall be responsible for implementing revenue and expenditure in accordance with the principles of sound financial management and for ensuring that the requirements of legality and regularity are complied with.

2. To implement expenditure, the authorising officer shall make budget commitments and legal commitments, shall validate expenditure and authorise payments and shall undertake the preliminaries for the implementation of appropriations.

3. Implementation of revenue shall comprise drawing up estimates of amounts receivable, establishing entitlements to be recovered and issuing recovery orders. It shall involve waiving established entitlements where appropriate.

4. The authorising officer shall put in place, in compliance with the minimum standards adopted by the Management Board on the basis of the standards laid down by the Commission for its own department and having due regard to the risks associated with the management environment and the nature of the action financed, the organisational structure and the internal management and control systems and procedures suited to the performance of his/her duties, including where appropriate *ex post* verifications. The authorising officer shall establish within his/her departments an expertise and advice function designed to help him/her control the risks involved in his/her activities.

5. Before an operation is authorised, the operational and financial aspects shall be verified by members of staff other than the one who initiated the operation. Initiation and the *ex ante* and *ex post* verification of an operation shall be separate functions.

6. The authorising officer shall conserve the supporting documents relating to operations carried out for a period of five years from the date of the decision granting discharge in respect of implementation of the budget.

Personal data contained in supporting documents shall be deleted where possible when those data are not necessary for budgetary discharge, control and audit purposes. In any event, as concerns the conservation of traffic data, the provisions of Article 37(2) of Regulation (EC) 45/2001 shall be observed.

Article 39

1. Initiation of an operation as referred to in Article 38(5) shall be understood to mean all the operations which are preparatory to the adoption of the acts implementing the budget by the authorising officers responsible referred to in Articles 33 and 34.

2. *Ex ante* verification of an operation as referred to in Article 38(5) shall be understood to mean all the *ex ante* checks put in place by the authorising officer responsible in order to verify the operational and financial aspects.

3. Each operation shall be the subject of at least one *ex ante* verification. The purpose of this verification shall be to ascertain that:

(a) the expenditure is in order and conforms to the relevant provisions;

(b) the principle of sound financial management referred to in Article 25 has been applied.

For the purpose of *ex ante* verification, a series of similar individual transactions relating to routine expenditure on salaries, pensions, reimbursement of mission expenses and medical expenses may be considered by the authorising officer responsible to constitute a single operation.

In the case referred to in the second subparagraph, the authorising officer responsible shall, depending on his risk assessment, carry out an appropriate *ex post* verification, in accordance with paragraph 4.

4. The purpose of *ex post* verifications of documents and, where appropriate, on-the-spot verifications shall be to verify that operations financed by the budget have been correctly implemented and in particular that the criteria referred to in paragraph 3 have been complied with. These verifications may be organised on a sample basis using risk analysis.

5. The officials or other staff responsible for the verifications referred to in paragraphs 2 and 4 shall be different from those performing the tasks referred to in paragraph 1 and shall not be their subordinates.

6. All staff responsible for scrutinising the management of financial operations must have the necessary professional skills. They shall respect a specific code of professional standards adopted by Europol and based on standards laid down by the Commission for its own departments.

Article 40

1. The authorising officer shall report to the Management Board on the performance of his/her duties in the form of an annual activity report, together with financial and management information confirming that the information contained in the report presents a true and fair view except as otherwise specified in any reservations related to defined areas of revenue and expenditure.

The annual activity report shall indicate the results of his/her operations by reference to the objectives set, the risks associated with these operations, the use made of the resources provided and the efficiency and effectiveness of the internal control system. The Europol internal audit function and the Commission's internal auditor within the meaning of Article 71 shall take note of the annual activity report and any other pieces of information identified.

2. By no later than 15 June each year, the Management Board shall send the budgetary authority and the Court of Auditors an analysis and an assessment of the authorising officer's report on the previous financial year. This analysis and assessment shall be included in the annual report of Europol, in accordance with the provisions of the constituent instruments. Where reporting under this Article concerns 'Europol operational, strategic and classified information', the authorising officer may provide for such information to be reported on separately to the Management Board, which shall be entitled to take the final decision regarding whether or not such information should be included in any published document.

Article 41

Any member of staff involved in the financial management and control of transactions who considers that a decision he/she is required by his/her superior to apply or to agree to is irregular or contrary to the principles of sound financial management or the professional rules he/she is required to observe shall inform the Director in writing and, if the latter fails to take action within a reasonable period, the panel referred to in Article 47(4) and the Management Board. In the event of any illegal activity, fraud or corruption which may harm the interests of the Community, he/she shall inform the authorities and bodies designated by the applicable legislation.

Article 42

Where powers of budget implementation are delegated or sub-delegated in accordance with Article 34, Article 38(1), (2) and (3) shall apply *mutatis mutandis* to the authorising officers by delegation or subdelegation.

Section 3

Accounting officer

Article 43

1. The Management Board shall appoint an accounting officer, covered by the Staff Regulations, who shall be functionally independent in the performance of his/her duties. He/she shall be responsible in Europol for:

(a) proper implementation of payments, collection of revenue and recovery of amounts established as being receivable;

(b) preparing and presenting the accounts in accordance with Title VII;

(c) keeping the accounts in accordance with Title VII;

(d) implementing, in accordance with Title VII, the accounting rules and methods and the chart of accounts in accordance with the provisions adopted by the Commission's accounting officer;

(e) laying down and validating the accounting systems, and, where appropriate, validating systems laid down by the authorising officer to supply or justify accounting information; the accounting officer shall be empowered to verify the respect of validation criteria;

(f) treasury management.

2. The accounting officer shall obtain from the authorising officer, who shall guarantee its reliability, all the information necessary for the production of accounts which give a true image of Europol's assets and of budget implementation.

2a. Before the adoption of the accounts by the Director, the accounting officer shall sign them off, thereby certifying that he/she has a reasonable assurance that the accounts present a true and fair view of the financial situation of Europol.

For that purpose the accounting officer shall satisfy himself/herself that the accounts have been prepared in accordance with the accounting rules, methods and accounting systems established, and that all revenue and expenditure is entered in the accounts.

The authorising officer shall forward all information that the accounting officer needs in order to fulfil his/her duties.

The authorising officer shall remain fully responsible for the proper use of the funds he/she manages as well as the legality and regularity of the expenditure under his/her control.

2b. The accounting officer shall be empowered to check the information received as well as to carry out any further checks he/she deems necessary in order to sign off the accounts.

The accounting officer shall make reservations, if necessary, explaining exactly the nature and scope of such reservations.

2c. The accounting officer of Europol shall sign off its annual accounts and send them to the Commission's accounting officer.

3. Subject to paragraph 4 of this Article and Article 44, only the accounting officer shall be empowered to manage cash and cash equivalents. He/she shall be responsible for their safekeeping.

4. The accounting officer may, in the performance of his/her duties, delegate certain tasks to subordinate staff subject to the Staff Regulations, where this is indispensable for the performance of his/her duties.

5. The instrument of delegation shall lay down the tasks entrusted to the delegatees and their rights and obligations.

Section 4

Imprest administrator

Article 44

Where it proves indispensable for the payment of small sums and for the collection of other revenue referred to in Article 5, imprest accounts may be set up which shall be endowed by the accounting officer and shall be placed under the responsibility of imprest administrators designated by him/her.

The maximum amount of each item of expenditure or revenue that can be paid by the imprest administrator to third parties may not exceed a certain amount to be specified by Europol for each item of expenditure or revenue.

Payments from imprest accounts may be made by bank credit transfer, including the direct debit system referred to in Article 66 (1a), cheque or other means of payment, in accordance with the instructions laid down by the accounting officer.

CHAPTER 3

Liability of the financial actors

Section 1

General rules

Article 45

1. Without prejudice to any disciplinary action, authorising officers by delegation and subdelegation may at any time have their delegation or subdelegation withdrawn temporarily or definitively by the authority which appointed them. The authorising officer may at any time withdraw his/her agreement to a specific subdelegation.

2. Without prejudice to any disciplinary action, the accounting officer may at any time be suspended temporarily or definitively from his/her duties by the Management Board. The Management Board shall appoint an interim accounting officer.

3. Without prejudice to any disciplinary action, imprest administrators may at any time be suspended temporarily or definitively from their duties by the accounting officer.

Article 46

1. The provisions of this chapter are without prejudice to the criminal-law liability which the authorising officer and the persons referred to in Article 45 may incur as provided in the applicable national law and in the provisions in force on the protection of the Communities' financial interests and on the fight against corruption involving officials of the Communities or officials of Member States.

2. Each authorising officer, accounting officer or imprest administrator shall be liable to disciplinary action and payment of compensation as laid down in the Staff Regulations, without prejudice to Articles 47, 48 and 49. In the event of illegal activity, fraud or corruption which may harm the interests of the Community, the matter will be referred to the authorities and bodies designated by the applicable legislation.

Section 2

Rules applicable to authorising officer and authorising officer by delegation or by subdelegation

Article 47

1. The authorising officer shall be liable to payment of compensation as laid down in the Staff Regulations.

1a. The obligation to pay compensation shall apply in particular if:

(a) the authorising officer, whether intentionally or through gross negligence on his/her part, determines entitlements to be recovered or issues recovery orders, commits expenditure or signs a payment order without complying with this Regulation and its implementing rules;

(b) the authorising officer, whether intentionally or through gross negligence on his/her part, omits to draw up a document establishing an amount receivable, neglects to issue a recovery order or is late in issuing it, or is late in issuing a payment order, thereby rendering Europol liable to civil action by third parties.

2. An authorising officer by delegation or subdelegation who considers that a decision falling under his/her responsibility is irregular or contrary to the principles of sound financial management shall inform the delegating authority in writing. If the delegating authority then gives a reasoned instruction in writing to the authorising officer by delegation or subdelegation to implement the decision in question, the latter must implement it and may not be held liable.

3. In the event of delegation, the authorising officer shall continue to be responsible for the efficiency and effectiveness of the internal management and control systems put in place and for the choice of the authorising officer by delegation.

4. The specialised financial irregularities panel set up by the Commission in accordance with Article 66(4) of the general Financial Regulation shall exercise the same powers in respect of Europol as it does in respect of Commission departments. As an alternative to the aforementioned panel established under the general Financial regulation (the 'general panel'), the Management Board may decide on an ad hoc basis to set up a functionally independent panel to investigate particular financial irregularities or to participate in a joint panel established by several Community bodies. For cases submitted by Communities bodies, the specialised financial irregularities panel set up by the Commission shall include one staff member of a Community body.

On the basis of the opinion of the panel (whether the general panel or an ad hoc panel as described above), the Director shall decide whether to initiate disciplinary proceedings or proceedings for the payment of compensation. If the panel detects systemic problems, it shall send a report with recommendations to the authorising officer and to the Commission's internal auditor. If the opinion implicates the Director, the panel shall send it to the Management Board, Europol internal audit function and the Commission's internal auditor. The Director shall refer, in anonymous form, to opinions of the panel in his annual activity report and indicate the follow-up measures taken.

5. Any member of staff may be required to compensate, in whole or in part, any damage suffered by Europol as a result of serious misconduct on his/her part in the course of or in connection with the performance of his/her duties.

The appointing authority shall take a reasoned decision, after completing the formalities laid down by the Staff Regulations with regard to disciplinary matters.

Section 3

Rules applicable to the accounting officer and imprest administrator

Article 48

An accounting officer may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

(a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;

(b) he/she alters bank accounts or postal giro accounts without notifying the authorising officer in advance;

(c) he/she recovers or pays amounts which are not in conformity with the corresponding recovery or payment orders;

(d) he/she fails to collect revenue due.

Article 49

An imprest administrator may be liable to disciplinary action and payment of compensation, as laid down in the Staff Regulations, in particular where:

(a) he/she loses or damages monies, assets and documents in his/her keeping or causes them to be lost or damaged by his/her negligence;

(b) he/she cannot provide proper supporting documents for the payments he/she has made;

(c) he/she makes payments to persons other than those entitled;

(d) he/she fails to collect revenue due.

CHAPTER 4

Revenue operations

Section 1

General provisions

Article 50

Europol shall present to the Commission requests for payment of all or part of the Community subsidy pursuant to Article 15(5) under terms and at intervals agreed with the Commission.

Article 51

The funds paid to Europol by the Commission by way of the subsidy shall bear interest for the benefit of the general budget.

Section 2

Estimate of amounts receivable

Article 52

An estimate of the amount receivable shall first be made by the authorising officer responsible in respect of any measure or situation which may give rise to or modify an amount owing to Europol.

Section 3

Establishment of amounts receivable

Article 53

1. Establishment of an amount receivable is the act by which the authorising officer or authorising officer by delegation:

(a) verifies that the debt exists;

(b) determines or verifies the reality and the amount of the debt;

(c) verifies the conditions in which the debt is due.

2. Any amount receivable that is identified as being certain, of a fixed amount and due must be established by a recovery order given to the accounting officer, accompanied by a debit note sent to the debtor. Both of these documents shall be drawn up and sent by the authorising officer responsible.

3. The contracts and grant agreements concluded by Europol shall provide that any debt not repaid on the due date laid down in the debit note shall bear interest in accordance with Commission Regulation (EC, Euratom) No 2342 [1]. The condition whereby interest on late payment is due to Europol, including the rate for default interest, shall be explicitly referred to in the contracts and grant agreements.

4. In duly substantiated cases, certain routine revenue items may be established provisionally. Provisional establishment shall cover the recovery of several individual amounts which need not therefore be established individually. Before the end of the financial year, the authorising officer shall amend the amounts established provisionally to ensure that they correspond to the amounts receivable actually established.

Section 4

Authorisation of recovery

Article 54

The authorisation of recovery is the act whereby the authorising officer responsible instructs the accounting officer, by issuing a recovery order, to recover an amount receivable which he/she has established.

Section 5

Recovery

Article 55

1. Amounts wrongly paid shall be recovered.

2. The accounting officer shall act on recovery orders for amounts receivable duly established by the authorising officer or authorising officer responsible. He/she shall exercise due diligence to ensure that Europol receives its revenue and shall see that its rights are safeguarded.

3. Where the authorising officer responsible is planning to waive or partially waive recovery of an established amount receivable, he/she shall ensure that the waiver is in order and complies with the principle of sound financial management and proportionality.

Such a waiver shall be by a duly substantiated decision of the authorising officer. The authorising officer may delegate such a decision only for amounts receivable of less than EUR 5 000.

The waiver decision shall state what action has been taken to secure recovery and the points of law and fact on which it is based.

4. The authorising officer responsible shall cancel an established amount receivable when the discovery of a mistake as to a point of law or fact reveals that the amount had not been correctly established. Such cancellation shall be by decision of the authorising officer responsible and shall be suitably substantiated.

5. The authorising officer responsible shall adjust the amount of an established debt upwards or downwards when the discovery of a factual error entails the alteration of the amount of the debt, provided that this correction does not involve the loss of the established entitlement of Europol. Such an adjustment shall be by decision of the authorising officer responsible and shall be suitably substantiated.

Article 56

1. Upon actual recovery of the sum due, the accounting officer shall make an entry in the accounts and shall inform the authorising officer responsible.

[1] OJ L 357, 31.12.2002, p. 1.

2. A receipt shall be issued in respect of all cash payments made to the accounting officer.

Article 57

1. If actual recovery has not taken place by the due date stipulated in the debit note, the accounting officer shall inform the authorising officer responsible and immediately launch the procedure for effecting recovery by any means offered by the law, including, where appropriate, by offsetting and, if this is not possible, by enforced recovery.

2. The accounting officer shall recover amounts by offsetting them against equivalent claims that Europol has on any debtor who himself or herself has a claim on Europol that is certain, of a fixed amount and due, provided that offsetting is legally possible.

Article 58

The accounting officer, in collaboration with the authorising officer responsible, may allow additional time for payment only at the written request of the debtor, with due indication of the reasons, provided that the following two conditions are met:

(a) the debtor undertakes to pay interest at the rate specified in Article 86 of Regulation (EC, Euratom) No 2342/2002 for the entire additional period allowed, starting from the date set in the debit note;

(b) in order to safeguard the rights of Europol, the debtor provides a financial guarantee covering both the principal sum and the interest.

Article 58a

The accounting officer shall keep a list of amounts due to be recovered, in which Europol's entitlements are grouped according to the date of issue of the recovery order. He/she shall also indicate decisions to waive or partially waive recovery of established amounts. The list shall be added to Europol's report on budgetary and financial management.

Europol shall establish a list of Europol's entitlements stating the names of the debtors and the amount of the debt, where the debtor has been ordered to pay by a Court decision that has the force of *res judicata* and where no or no significant payment has been made for one year following its pronouncement. The list shall be published, taking account of the relevant legislation on data protection.

Article 58b

Entitlements of Europol in respect of third parties and entitlements of third parties in respect of Europol shall be subject to a limitation period of five years which shall be laid down in the contracts and grant agreements concluded by Europol.

Section 6

Specific provisions applicable to fees and charges

Article 59

Where Europol collects fees and charges referred to in Article 5(a), the overall provisional estimate of such fees and charges shall be made at the beginning of each financial year.

Where fees and charges are entirely determined by legislation or decisions of the Management Board, the authorising officer may abstain from issuing recovery orders and directly draw up debit notes after having established the amount receivable. In this case all details of Europol's entitlement shall be registered. The accounting officer shall keep a list of all debit notes and provide the number of debit notes and the global amount in Europol's report on budgetary and financial management.

Where Europol uses a separate invoicing system, the accounting officer shall regularly, and at least on a monthly basis, enter the accumulated sum of fees and charges received into the accounts.

As a general rule Europol shall provide services by virtue of the tasks entrusted to it only after the corresponding fee or charge has been paid in its entirety. If by way of exception, a service has been provided without prior payment of the corresponding charge or fee, Sections 3, 4, and 5 of this Chapter shall apply.

CHAPTER 5

Expenditure operations

Article 60

1. Every item of expenditure shall be committed, validated, authorised and paid.

2. Every commitment of expenditure shall be preceded by a financing decision.

3. The work programme of Europol shall be equivalent to a financing decision for the activities it covers, provided that they are clearly identified and the underlying criteria are spelled out precisely. The work programme shall comprise detailed objectives and performance indicators. Such objectives and performance indicators shall not contain Europol operational, strategic and classified information.

4. Administrative appropriations may be implemented without a prior financing decision.

Section 1

Commitment of expenditures

Article 61

1. The budget commitment is the operation reserving the appropriations necessary to cover subsequent payments to honour a legal commitment.

2. The legal commitment is the act whereby the authorising officer responsible enters into or establishes an obligation which results in a charge for the budget.

3. The budget commitment is individual when the beneficiary and the amount of the expenditure are known.

4. The budget commitment is global when at least one of the elements necessary to identify the individual commitment is still not known.

5. The budget commitment is provisional when it is intended to cover routine administrative expenditure and either the amount or the final beneficiaries are not definitively known. The provisional budget commitment shall be implemented either by the conclusion of one or more individual legal commitments giving rise to an entitlement to subsequent payments or, in exceptional cases relating to expenditure on staff management, directly by payments

Article 62

1. In respect of any measure which may give rise to expenditure chargeable to the budget, the authorising officer responsible must first make a budget commitment before entering into a legal obligation with third parties.

2. Global budget commitments shall cover the total cost of the corresponding individual legal commitments concluded up to 31 December of year *n +1*.

Individual legal commitments relating to individual or provisional budget commitments shall be concluded by 31 December of year *n*.

At the end of the periods referred to in the first and second subparagraphs, the unused balance of these budget commitments shall be decommitted by the authorising officer responsible.

3. The legal commitments entered into for actions extending over more than one financial year and the corresponding budget commitments shall, save in the case of staff expenditure, have a final date for implementation set in compliance with the principle of sound financial management.

Any parts of such commitments which have not been executed six months after that final date shall be decommitted in accordance with Article 11.

The amount of a budget commitment corresponding to a legal commitment for which no payment within the meaning of Article 67 has been made in a period of three years following the signing of the legal commitment shall be decommitted.

Article 63

When adopting a budget commitment, the authorising officer responsible shall ensure that:

(a) the expenditure has been charged to the correct item in the budget;

(b) the appropriations are available;

(c) the expenditure conforms to the Europol Financial Rules;

(d) the principle of sound financial management is complied with.

Section 2

Validation of expenditure

Article 64

Validation of expenditure is the act whereby the authorising officer responsible:

(a) verifies the existence of the creditor's entitlement;

(b) verifies the conditions in which payment is due;

(c) determines or verifies the reality and the amount of the claim.

Article 65

1. Validation of any expenditure shall be based on supporting documents attesting the creditor's entitlement, on the basis of a statement of services actually rendered, supplies actually delivered or work actually carried out, or on the basis of other documents justifying payment.

2. The validation decision shall be expressed by the signing of a 'passed for payment' voucher by the authorising officer responsible.

3. In a non-computerised system, 'passed for payment' shall take the form of a stamp incorporating the signature of the authorising officer responsible. In a computerised system, 'passed for payment' shall take the form of validation using the personal password of the authorising officer responsible.

Section 3

Authorisation of expenditure

Article 66

1. Authorisation of expenditure is the act whereby the authorising officer responsible, by issuing a payment order, instructs the accounting officer to pay an item of expenditure which he/she validated.

1a. Where periodic payments are made with regard to services rendered, including rental services, or goods delivered, and subject to his/her risk analysis, the authorising officer may order the application of a direct debit system.

2. The payment order shall be dated and signed by the authorising officer responsible, then sent to the accounting officer. The supporting documents shall be kept by the authorising officer responsible in accordance with Article 38(6).

3. Where appropriate, the payment order sent to the accounting officer shall be accompanied by a document certifying that the goods have been entered in the inventories referred to in Article 90(1).

Section 4

Payment of expenditure

Article 67

1. Payment shall be made on production of proof that the relevant action has been carried out in accordance with the provisions of the Europol Decision within the meaning of Article 49 of the general Financial Regulation or the contract or grant agreement, and shall cover one of the following operations:

(a) payment of the entire amount due;

(b) payment of the amount due in any of the following ways:

(i) prefinancing, which may be divided into a number of payments;

(ii) one or more interim payments;

(iii) payment of the balance of the amounts due. Prefinancing shall count in full or in part against the interim payments.

The entire prefinancing and interim payments shall count against the payment of balances.

2. A distinction shall be made in the accounts between the different types of payment referred to in paragraph 1 at the time they are made.

Article 68

Payment of expenditure shall be made by the accounting officer within the limits of the funds available.

Section 5

Time limits for expenditure operations

Article 69

The validation, authorisation and payment of expenditure must be carried out within the time limits specified in, and in accordance with the provisions of the Europol Financial Implementing Rules.

CHAPTER 6

IT systems

Article 70

Where revenue and expenditure operations are managed by means of computer systems, documents may be signed by a computerised or electronic procedure.

CHAPTER 7

Internal auditor

Article 71

1. Europol shall have an internal audit function which must be performed in compliance with the relevant international standards.

2. The establishment by the Management Board of an internal audit function at Europol does not affect the rights of the Commission's internal auditor who shall exercise the same powers with respect to Europol as with respect to Commission departments with the exception that the Management Board may revise, on the basis of Article 5 of the Europol Decision, the audit plan as submitted by the Commission's internal auditor. The Director, in respect of the implementation of the audit plan, may limit the scope of an audit by denying access to strategic, operational and classified information as defined in Article 2(14) of the Financial Regulation. Should the Director elect to limit the scope of an audit on such grounds, the Commission's internal auditor shall be provided with a written justification.

3. The Europol internal audit function and the Commission's internal auditor shall perform their functions without prejudice to Article 38(4).

Article 72

1. The Europol internal audit function and the Commission's internal auditor shall advise Europol on dealing with risks, by issuing opinions on the quality of management and control systems and by issuing recommendations for improving the conditions of implementation of operations and promoting sound financial management.

The Europol internal audit function and the Commission's internal auditor shall be responsible:

(a) for assessing the suitability and effectiveness of internal management systems and the performance of departments in implementing programmes and actions by reference to the risks associated with them; and

(b) for assessing the efficiency and effectiveness of the internal control and audit systems applicable to every budget implementation operation.

2. The Europol internal audit function and the Commission's internal auditor shall perform its duties on all Europol's activities and departments. The Europol internal audit function shall enjoy full and unlimited access to all information required in the performance of these duties. Without prejudice to Article 71(2), the Commission's internal auditor shall enjoy the same full and unlimited access to all information required in the performance of these duties.

3. The head of the Europol internal audit function and the Commission's internal auditor shall report to the Management Board and the Director on his/her findings and recommendations. They shall ensure that action is taken on recommendations resulting from audits.

4. The head of the Europol internal audit function and the Commission's internal auditor shall submit to the Management Board and the Director an annual internal audit report setting out, inter alia, the number and type of internal audits conducted and the recommendations made. This annual report shall also mention any systemic problems detected by the specialised panel set up under Article 66(4) of the general Financial Regulation.

4a. the Director shall submit written comments to the Management Board regarding the action taken on the recommendations made by the Europol internal audit function and the Commission's internal auditor.

5. Each year the Management Board shall send to the authority responsible for discharge and to the Commission the report drawn up by the Europol internal audit function and the Commission's internal auditor, including the comments of the Director referred to in paragraph 4a.

Article 73

1. The responsibility of the internal audit function for action taken in the performance of the internal audit function shall be mutatis mutandis as laid down in special rules applicable to the Commission's internal auditor. The special rules shall guarantee that the internal audit function is totally independent in the performance of his/her duties and shall establish responsibility. In addition the provisions in the rules to be established by the Management Board shall be observed in accordance with Article 37(9)(f) of the Europol Decision.

2. The responsibility of the Commission's internal auditor shall be determined in accordance with Article 87 of the general Financial Regulation.

TITLE V

PROCUREMENT

Article 74

1. As regards procurement, the relevant provisions of the general Financial Regulation and Regulation (EC, Euratom) No 2342/2002 shall apply subject to paragraphs 4 to 7 of this Article.

2. Europol may request to be associated, as contracting authority, in the award of Commission or interinstitutional contracts and in the award of contracts of other Community bodies.

3. Europol shall participate in the common central database set up and operated by the Commission pursuant to Article 95 of the general Financial Regulation.

4. Europol may conclude a contract, without having recourse to a public procurement procedure, with the Commission, the interinstitutional offices and the Translation Centre for bodies of the European Union established by Council Regulation (EC) No 2965/94 [1] for the supply of goods, provision of services or performance of work that the latter provide.

[1] OJ L 314, 7.12.1994, p. 1.

5. Europol may use joint procurement procedures with contracting authorities of the host Member State to cover its administrative needs. In such cases Article 125c of Commission Regulation (EC, Euratom) No 2342/2002 shall apply mutatis mutandis.

5a. Europol may use joint procurement procedures with international organisations, provided they shall, in their procurement procedures, apply standards which offer guarantees equivalent to internationally accepted standards, specially relating to transparency, non-discrimination and prevention of conflict of interest. The Director is alone empowered to recognise the equivalence of the guarantees with the internationally accepted standards.

6. For the application of Article 101 of the general Financial Regulation, the call for tender shall provide that Europol may, before the contract is signed, either abandon the procurement or cancel the award procedure without the candidates or tenderers being entitled to claim any compensation.

7. For the application of Article 103 of the general Financial Regulation, calls for tender launched by Europol shall provide that it may suspend the procedure and may take whatever measures are necessary, including the cancellation of the procedure under the conditions laid down in that Article.

For the application of Article 103 of the general Financial Regulation, the contracts concluded by Europol with economic operators shall stipulate that it may take the measures specified in that Article under the conditions laid down therein.

TITLE VA

PROJECTS WITH SIGNIFICANT BUDGET IMPLICATIONS

Article 74a

The Management Board shall, as soon as possible, notify the budgetary authority of its intention to implement any project, which may have significant financial implications for the funding of its administrative budget, in particular any projects relating to property such as the rental or purchase of buildings. It shall inform the Commission thereof.

If either branch of the budgetary authority intends to issue an opinion, it shall within two week after receipt of the information on the project notify Europol of its intention to issue such an opinion. Failing a reply, Europol may proceed with the planned operation.

This opinion shall be forwarded to Europol within four weeks of such notification pursuant to the second paragraph.

TITLE VB

EXPERTS

Article 74b

Article 265a of the Regulation (EC, Euratom) No 2342/2002 shall apply mutatis mutandis for the selection of experts. Such experts shall be paid on the basis of a fixed amount, for assisting Europol, in particular in evaluating proposals and grant applications or tenders for procurement, and for providing technical assistance in the follow-up to, and final evaluation of projects. Europol may use the lists drawn up by the Commission or other Community bodies.

TITLE VI

GRANTS AWARDED BY EUROPOL

Article 75

1. Where Europol may award grants in accordance with the Europol Decision or by delegation of the Commission pursuant to Article 54(2)(b) of the general Financial Regulation, the relevant provisions of the general Financial Regulation and Regulation (EC, Euratom) No 2342/2002 shall apply subject to paragraphs 2 and 3 of this Article.

2. Grants shall be covered by written agreements between Europol and the beneficiary.

3. For the application of Article 119(2) of the general Financial Regulation, grant agreements concluded by Europol shall stipulate that it may suspend, reduce or terminate the grant in the cases provided for by Article 183 of Regulation (EC, Euratom) No 2342/2002 after the beneficiary has been given the opportunity to make his observations.

TITLE VII

PRESENTATION OF THE ACCOUNTS AND ACCOUNTING

CHAPTER 1

Presentation of the accounts

Article 76

The annual accounts of Europol shall comprise:

(a) the financial statements of Europol;

(b) the reports on implementation of the budget.

The accounts of Europol shall be accompanied by a report on budgetary and financial management during the year, which shall give an account, *inter alia*, of the rate of implementation of the appropriations together with summary information on the transfers of appropriations among the various budget items.

Article 77

The accounts must comply with the rules and be accurate and comprehensive and present a true and fair view:

(a) as regards the financial statements, of the assets and liabilities, charges and income, entitlements and obligations not shown as assets or liabilities and cash flow;

(b) as regards reports on budgetary implementation, of revenue and expenditure operations.

Article 78

The financial statements shall be drawn up in accordance with the generally accepted accounting principles specified in the detailed rules for implementing the general Financial Regulation, namely:

(a) going concern basis;

(b) prudence;

(c) consistent accounting methods;

(d) comparability of information;

(e) materiality;

(f) no netting;

(g) reality over appearance;

(h) accrual-based accounting.

Article 79

1. In accordance with the principle of accrual-based accounting, the financial statements shall show the charges and income for the financial year, regardless of the date of payment or collection.

2. The value of assets and liabilities shall be determined in accordance with the valuation rules laid down by the accounting methods provided for in Article 132 of the general Financial Regulation.

Article 80

1. The financial statements shall be presented in euro and shall comprise:

(a) the balance sheet and the economic outturn account, which represent the assets and liabilities and financial situation and the economic outturn at 31 December of the previous year; they shall be presented in accordance with the structure laid down by the Council Directive on the annual accounts of certain types of companies, but with account being taken of the specific nature of Europol's activities;

(b) the cash-flow table showing amounts collected and disbursed during the year and the final treasury position;

(c) the statement of changes in capital presenting in detail the increases and decreases during the year in each item of the capital accounts.

2. The annex to the financial statements shall supplement and comment on the information presented in the statements referred to in paragraph 1 and shall supply all the additional information prescribed by internationally accepted accounting practice where such information is relevant to Europol's activities.

Article 81

The budgetary implementation reports shall be presented in euro. They shall comprise:

(a) the budgetary outturn account, which sets out all budget operations for the year in terms of revenue and expenditure; the structure in which it is presented shall be the same as that of the budget itself;

(b) the annex to the budgetary outturn account, which shall supplement and comment on the information given in that account.

Article 82

The accounting officer shall send to the Commission's accounting officer and the Court of Auditors by no later than 1 March of the following year its provisional accounts, together with the report on budgetary and financial management during the year, referred to in Article 76, so that the Commission's accounting officer can consolidate the accounts as provided for in Article 128 of the general Financial Regulation.

The accounting officer shall also send the report on budgetary and financial management to the European Parliament and the Council by 31 March of the following year at the latest.

Article 83

1. In accordance with Article 129(1) of the general Financial Regulation, the Court of Auditors shall, by 15 June of the following year at the latest, make its observations on the provisional accounts of Europol.

2. On receiving the Court of Auditors' observations on the provisional accounts of Europol, the Director shall draw up the final accounts of Europol in accordance with Article 43, under his own responsibility, and send them to the Management Board, which shall give an opinion on these accounts.

3. The Director shall send the final accounts, together with the opinion of the Management Board, to the Commission's accounting officer, the Court of Auditors, the European Parliament and the Council, by 1 July of the following year at the latest.

4. The final accounts of Europol, consolidated with those of the Commission, shall be published in the *Official Journal of the European Union* by 15 November of the following year.

5. The Director shall send the Court of Auditors a reply to the observations made in its annual report by 30 September of the following year at the latest. The replies of Europol shall be sent to the Commission at the same time.

CHAPTER 2

Accounting

Section 1

Common provisions

Article 84

1. Europol's accounting system is the system serving to organise the budgetary and financial information in such a way that figures can be input, filed and registered.

2. The accounts shall consist of general accounts and budgetary accounts. These accounts shall be kept in euro on the basis of the calendar year.

3. The figures in the general accounts and the budgetary accounts shall be adopted at the close of the budget year so that the accounts referred to in Chapter 1 can be drawn up.

4. Notwithstanding paragraphs 2 and 3, the authorising officer may keep analytical accounts.

Article 85

The accounting rules and methods and the harmonised chart of accounts to be applied by Europol shall be adopted by the Commission's accounting officer in accordance with Article 133 of the general Financial Regulation.

Section 2

General accounts

Article 86

The general accounts shall record, in chronological order using the double entry method, all events and operations which affect the economic and financial situation and the assets and liabilities of Europol.

Article 87

1. Movements on the accounts and the balances shall be entered in the accounting ledgers.

2. All accounting entries, including adjustments to the accounts, shall be based on supporting documents, to which they shall refer.

3. The accounting system must be such as to leave a trail for all accounting entries.

Article 88

Europol's accounting officer shall, after the close of the budgetary year and up to the date of presentation of the final accounts, make any adjustments which, without involving disbursement or collection in respect of that year, are necessary for a true and fair presentation of the accounts in compliance with the rules.

Section 3

Budget accounts

Article 89

1. The budget accounts shall provide a detailed record of budgetary implementation.

2. For the purposes of paragraph 1, the budgetary accounts shall record all budgetary revenue and expenditure operations provided for in Title IV of this Regulation.

CHAPTER 3

Property inventories

Article 90

1. Europol shall keep inventories showing the quantity and value of all the tangible, intangible and financial assets constituting Europol's property in accordance with a model drawn up by the Commission's accounting officer. Europol shall check that entries in the inventory correspond to the actual situation.

2. The sale of movable property shall be advertised in an appropriate manner.

TITLE VIII

EXTERNAL AUDIT AND DISCHARGE

CHAPTER 1

External audit

Article 91

The Court of Auditors shall scrutinise the accounts of Europol in accordance with Article 248 of the EC Treaty.

Article 92

1. Europol shall send the Court of Auditors the budget, as finally adopted. It shall inform the Court of Auditors, as soon as possible, of all decisions and acts adopted pursuant to Articles 10, 14, 19 and 23.

2. Europol shall send the Court of Auditors the internal financial rules it has adopted.

3. The Court of Auditors shall be informed of the appointment of authorising officers, accounting officers and imprest administrators and of delegation decisions under Article 34, Article 43(1) and (4) and Article 44.

Article 93

The scrutiny carried out by the Court of Auditors shall be governed by Articles 139 to 144 of the general Financial Regulation. This scrutiny shall be exercised in a way which safeguards the protection of 'Europol operational, strategic and classified information'.

CHAPTER 2

Discharge

Article 94

1. The European Parliament, upon a recommendation from the Council, shall, before 30 April of year *n+2*, give a discharge to the Director in respect of the implementation of the budget for year *n*. The Director shall inform the Management Board of the observations of the European Parliament contained in the resolution accompanying the discharge decision.

2. If the date provided for in paragraph 1 cannot be met, the European Parliament or the Council shall inform the Director of the reasons for the postponement.

3. If the European Parliament postpones the decision giving a discharge, the Director, in cooperation with the Management Board, shall make every effort to take measures, as soon as possible, to remove or facilitate removal of the obstacles to that decision.

Article 95

1. The discharge decision shall cover the accounts of all the revenue and expenditure of Europol, the resulting balance and the assets and liabilities of Europol shown in the financial statement.

2. With a view to granting the discharge, the European Parliament shall, after the Council has done so, examine the accounts and financial statements of Europol. It shall also examine the annual report made by the Court of Auditors, together with the replies of the Director, any relevant special reports by the Court of Auditors in respect of the financial year in question and the Court of Auditors' statement of assurance as to the reliability of the accounts and the legality and regularity of the underlying transactions.

3. The Director shall submit to the European Parliament, at the latter's request, in the same manner as provided for in Article 146(3) of the general Financial Regulation, any information required for the smooth application of the discharge procedure for the year in question.

Article 96

1. The Director shall take all appropriate steps to act on the observations accompanying the European Parliament's discharge decision and on the comments accompanying the recommendation for discharge adopted by the Council.

2. At the request of the European Parliament or the Council, the Director shall report on the measures taken in the light of these observations and comments. He/she shall send a copy thereof to the Commission and the Court of Auditors.

TITLE IX

TRANSITIONAL AND FINAL PROVISIONS

Article 97

The European Parliament, the Council and the Commission shall be empowered to obtain any necessary information or explanations regarding budgetary matters within their fields of competence.

Article 98

The Management Board shall, as far as is necessary and with the Commission's prior consent, adopt the Europol Financial Implementing Rules, on a proposal from its Director.

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Union*. Prior to the entry into force, this regulation shall be published in the *Official Journal of the European Union*.

Done at The Hague on 30 July 2010.

For the Management Board
The Chairperson
Francisco José ARANDA