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COUNCIL DECISION

of 5 December 2007

concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council and repealing Decision 2003/479/EC

(2007/829/EC)

(OJ L 327, 13.12.2007, p. 10)

Amended by:

		Official Journal		
		No	page	date
►M1	Council Decision 2008/451/EC of 16 June 2008	L 158	56	18.6.2008
►M2	Council Decision 2009/399/EC of 27 April 2009	L 127	8	26.5.2009
►M3	Council Decision 2010/248/EU of 26 April 2010	L 110	31	1.5.2010
►M4	amended by Council Decision 2011/138/EU of 28 February 2011	L 59	41	4.3.2011
►M5	Council Decision 2011/139/EU of 28 February 2011	L 59	43	4.3.2011

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COUNCIL DECISION

of 5 December 2007

concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council and repealing Decision 2003/479/EC

(2007/829/EC)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 28(1) thereof,

Having regard to the Treaty establishing the European Community and in particular Article 207(2) thereof,

Whereas:

(1) Seconded national experts (hereinafter referred to as SNEs) and seconded national military staff (hereinafter referred to as seconded military staff) should enable the General Secretariat of the Council (hereinafter referred to as the GSC) to benefit from their high level of knowledge and professional experience, in particular in areas where such expertise is not readily available.

(2) This Decision should foster the exchange of professional experience and knowledge of European policies by temporarily assigning experts from Member States' public administrations or from international organisations to the GSC.

(3) SNEs should be drawn from public administrations in Member States or from international organisations.

(4) The rights and obligations of SNEs and seconded military staff set out in this Decision should ensure that they carry out their duties solely in the interests of the GSC.

(5) In view of the temporary nature of their work and their particular status, SNEs and seconded military staff should not take responsibility on behalf of the GSC for the exercise of its public law prerogatives, except where derogations are laid down in this Decision.

(6) This Decision should set out all the conditions of employment of SNEs and seconded military staff and be applicable regardless of the origin of the budgetary appropriations used to cover the expenditure.

(7) Special provision should moreover be made for military staff seconded to the GSC to form the European Union Military Staff.

(8) Since these rules replace those laid down in Council Decision 2003/479/EC [1], that Decision should be repealed without prejudice to its continuing application to all secondments taking place at the time of entry into force of this Decision,

[1] OJ L 160, 28.6.2003, p. 72. Decision as last amended by Decision 2007/456/EC (OJ L 173, 3.7.2007, p. 27).

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HAS DECIDED AS FOLLOWS:

CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

1. These rules are applicable to seconded national experts (SNEs) seconded to the General Secretariat of the Council (GSC) by Member States' public administrations. They shall also apply to experts on secondment from an international organisation.

2. The persons covered by these rules shall remain in the service of their employer throughout the period of secondment and shall continue to be paid by that employer.

3. The GSC shall recruit SNEs in accordance with requirements and budgetary possibilities. The Deputy Secretary-General shall establish the arrangements for such recruitment.

4. Except where the Deputy Secretary-General grants a derogation which is not applicable in the area of the Common Foreign and Security Policy (CFSP)/European Security and Defence Policy (ESDP), SNEs must be nationals of a Member State. SNEs shall be recruited on as wide a geographical basis as possible from among the nationals of the Member States. The Member States and the GSC shall cooperate to ensure, as far as possible, a balance between men and women and observe the principle of equal opportunities.

5. Secondment shall be implemented by an exchange of letters between the Directorate-General for Personnel and Administration of the GSC and the Permanent Representation of the Member State concerned or the international organisation, as appropriate. The place of secondment must be indicated in the exchange of letters. A copy of the rules applicable to SNEs on secondment to the GSC shall be attached to the exchange of letters.

Article 2

Period of secondment

1. The period of secondment may not be less than six months nor exceed two years and may be renewed successively up to a total period not exceeding four years.

2. Notwithstanding paragraph 1, the period for which an SNE is seconded to take part in the preparation of military or civilian operations or to study their launch may be less than six months.

3. The intended period of secondment shall be fixed at the outset in the exchange of letters provided for in Article 1(5). The same procedure shall apply in the case of a renewal of the period of secondment.

4. An SNE who has already been seconded to the GSC may be seconded again, in accordance with internal rules laying down maximum periods during which such persons may be present in GSC departments and subject to the following conditions:

(a) the SNE must continue to meet the conditions for secondment;

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(b) a period of at least six years must have elapsed between the end of the previous period of secondment and any further secondment; if at the end of the first secondment the SNE has received another, additional contract, the six-year period shall begin to run from the expiry of that contract. This provision shall not prevent the GSC from accepting the secondment of an SNE whose initial secondment lasted for less than four years, but in that case the new secondment shall not exceed the unexpired part of the four-year period;

(c) the period stated in point (b) shall be reduced to three years if the period of the first secondment is less than six months.

Article 3

Place of secondment

SNEs shall be seconded to Brussels, to a GSC liaison office or to any other place where the European Union operates under a decision adopted by the Council. The place of secondment may be changed during the secondment by means of a further exchange of letters in accordance with Article 1(5) if the possibility of changing that place was not envisaged in the original exchange of letters. The administration which seconds an SNE shall be kept informed of any changes to the place of secondment.

Article 4

Duties

1. An SNE shall assist GSC officials or temporary staff and carry out the tasks assigned to him.

The duties carried out shall be defined by mutual agreement between the GSC and the administration which seconds the national expert in the interest of the departments and taking into account the candidate's qualifications.

2. An SNE shall take part in missions and meetings only:

(a) if accompanying a GSC official or temporary staff member; or

(b) as an observer or solely for information purposes, if alone.

Unless a special mandate has been granted, under the authority of the Secretary-General/High Representative, by the Director-General of the department concerned, the SNE may not commit the GSC externally.

3. The GSC shall retain sole responsibility for approving the results of tasks performed by the SNE.

4. The GSC departments concerned, the SNE's employer and the SNE shall make every effort to avoid any conflict of interest or appearance of such a conflict in relation to the SNE's duties during secondment. To that end, the GSC shall, in good time, inform the SNE and the employer of the intended duties and shall ask each of them to confirm in writing that they know of no reason why the SNE should not be assigned to those duties. The SNE shall be asked in particular to

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declare any potential conflict between his family circumstances (in particular the professional activities of close family members or any important financial interests of his own, or of close family members) and the proposed duties while on secondment.

The employer and the SNE shall undertake to notify the GSC of any change of circumstances during the secondment which could give rise to any such conflict.

5. Where the GSC considers that the nature of the tasks entrusted to the SNE requires particular security precautions, security clearance shall be obtained before the SNE is seconded.

6. In the event of failure to comply with the provisions of paragraphs 2, 3, 4 and 7, the GSC may terminate the secondment of the SNE under the terms of Article 8(2)(c).

7. Notwithstanding the first subparagraph of paragraph 1 and the first subparagraph of paragraph 2, the Deputy Secretary-General may, on a proposal from the Director-General of the department to which the SNE is assigned, entrust the SNE with specific duties and charge him with the conduct of one or more specific missions after verifying that there is no conflict of interest.

Article 5

Rights and obligations

1. During the period of secondment:

(a) an SNE shall carry out his duties and shall behave solely with the interests of the Council in mind;

(b) an SNE shall abstain from any action, and in particular any public expression of opinion, which may reflect on his position at the GSC;

(c) any SNE who, in the performance of his duties, is called upon to give a decision on the handling or outcome of a matter in which he has a personal interest that could impair his independence, shall inform the head of the department to which he is assigned;

(d) an SNE shall not, whether alone or together with others, publish or cause to be published any text dealing with the work of the European Union without obtaining permission in accordance with the conditions and rules in force at the GSC. Permission shall be refused only where the intended publication is liable to prejudice the interests of the European Union;

(e) all rights in any work done by an SNE in the performance of his duties shall be the property of the GSC;

(f) an SNE shall reside at the place of secondment or at no greater distance therefrom than is compatible with the proper performance of his activities;

(g) an SNE shall assist and tender advice to the superior to whom he is assigned and shall be responsible to his superior for the performance of the duties entrusted to him;

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(h) an SNE shall, in the exercise of his duties, accept no instructions from his employer or national government. He shall not undertake any activities for his employer, nor for governments, nor for any other person, private company or public body.

2. Both during and after the period of secondment, an SNE shall exercise the greatest discretion with regard to all facts and information of which he becomes aware in the course of or in connection with the performance of his duties. He shall not in any form whatsoever disclose to any unauthorised person any document or information not already lawfully made public, nor shall he use it for personal gain.

3. At the end of the secondment an SNE shall continue to be bound by the obligation to act with integrity and discretion in the exercise of new duties assigned to him and in accepting certain posts or advantages.

To that end, in the three years following the period of secondment an SNE shall inform the GSC forthwith of any duties or tasks he has to perform for his employer which are likely to give rise to a conflict of interest in relation to the tasks he carried out during secondment.

4. SNEs shall be subject to the security rules in force in the GSC.

5. Failure to comply with the provisions of paragraphs 1, 2 and 4 during the period of secondment shall entitle the GSC to terminate the secondment of an SNE under the terms of Article 8(2)(c).

Article 6

Level, professional experience and knowledge of languages

1. To qualify for secondment to the GSC, an SNE must have at least three years' full-time experience of administrative, scientific, technical, advisory or supervisory functions equivalent to those of function groups AD or AST as defined in the Staff Regulations of officials of the European Communities and the Regulations and Rules applicable to other servants of the Communities. Before the secondment, the SNE's employer shall supply the GSC with a statement of the expert's employment covering the previous 12 months.

2. An SNE must have a thorough knowledge of one Community language and a satisfactory knowledge of a second language for the performance of his duties.

Article 7

Suspension of secondment

1. The GSC may authorise suspensions of secondment and specify the terms applicable. During such suspensions:

(a) the allowances referred to in Articles 15 and 16 shall not be payable;

(b) the expenses referred to in Articles 18 and 19 shall be payable only if the suspension is at the GSC's request.

2. The GSC shall inform the SNE's employer.

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Article 8

Termination of periods of secondment

1. Subject to paragraph 2, secondment may be terminated at the request of the GSC or of the SNE's employer, provided three months' notice is given. It may also be terminated at the SNE's request provided the same notice is given and subject to the GSC's agreement.

2. In certain exceptional circumstances the secondment may be terminated without notice:

(a) by the SNE's employer, if the employer's essential interests so require;

(b) by agreement between the GSC and the employer, at the request of the SNE to both parties, if the SNE's essential personal or professional interests so require;

(c) by the GSC in the event of failure by the SNE to comply with his obligations under these rules. The SNE shall first be given an opportunity to submit his defence.

3. In the event of termination under paragraph 2(c), the GSC shall immediately inform the employer.

CHAPTER II

WORKING CONDITIONS

Article 9

Social security

1. Before the period of secondment begins, the employer from which the national expert is to be seconded shall certify to the GSC that, throughout the period of secondment, the SNE will remain subject to the social security legislation applicable to the public administration or international organisation which employs the SNE and which will assume responsibility for expenses incurred abroad.

2. From the commencement of his secondment, the SNE shall be covered by the GSC against the risk of accident. The GSC shall provide him with a copy of the terms of this cover on the day on which he reports to the relevant department of the Directorate-General for Personnel and Administration to complete the administrative formalities related to the secondment.

3. When, in the context of a mission in which the SNE is participating under the terms of Articles 4(2) and 20, or when, as a result of specific risks at the place of secondment, additional or specific insurance is required, the relevant costs shall be borne by the GSC.

Article 10

Working hours

1. An SNE shall be subject to the rules in force in the GSC as regards working hours. These rules may be modified by the Deputy General-Secretary where the needs of the department so require.

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2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request from a Directorate-General and subject to compatibility with the interests of the GSC, the Director-General of Personnel and Administration may authorise an SNE to work part-time, after agreement from his employer.

3. Where part-time working is authorised, the SNE shall work at least half of the normal working time.

4. The allowances in force within the GSC for shift-work or standby duty may be paid to SNEs.

Article 11

Absence for reasons of sickness or accident

1. In the event of absence for reasons of sickness or accident, an SNE shall notify his superior as soon as possible, stating his present address. He shall produce a medical certificate if absent for more than three days and may be required to undergo a medical examination arranged by the GSC.

2. If absence due to sickness or accident of not more than three days exceeds a total of 12 days over a period of 12 months, an SNE shall be required to produce a medical certificate for any further absence due to sickness.

3. Where the period of sick leave exceeds one month or the period of service performed by the SNE, whichever is the longer, the allowances referred to in Article 15(1) and (2) shall be automatically suspended. This provision shall not apply in the event of illness linked to pregnancy. Sick leave may not extend beyond the duration of the secondment of the person concerned.

4. However, an SNE who is the victim of a work-related injury which occurs during the secondment shall continue to receive in full the allowances provided for in Article 15(1) and (2) throughout the period during which he is unfit for work up to the end of the period of secondment.

Article 12

Annual leave, special leave and holidays

1. An SNE shall be entitled to two-and-a-half working days of leave per whole month of service (30 days per calendar year).

2. Leave is subject to prior authorisation by the department to which the SNE is assigned.

3. An SNE may, on reasoned application, be granted special leave in the following cases:

— marriage of the SNE: two days,

— serious illness of spouse: up to three days annually,

— death of spouse: four days,

— serious illness of a relative in the ascending line: up to two days annually,

— death of a relative in the ascending line: two days,

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— birth of a child: ten days, to be taken during the month following the birth,

— serious illness of a child: up to two days annually,

— removal to take up duties: up to two days,

— death of a child: four days.

Additional special leave of two days per period of 12 months may be granted at the request (with due justification) of the person concerned.

4. Upon a duly substantiated application by the SNE's employer, up to two days of special leave in a 12-month period may be granted by the GSC on a case-by-case basis.

5. In the case of part-time work, annual leave shall be reduced proportionately.

6. Days of annual leave not taken by the end of the period of secondment shall be forfeited.

7. Paragraph 3 shall not apply to those SNEs whose period of secondment is less than six months. However, an SNE whose period of secondment is less than six months may be granted special leave, on the basis of a reasoned application and subject to a decision by the Director-General of the department to which he is assigned. That special leave may not exceed three days for the whole period of secondment. Before granting the leave, the above Director-General in charge must consult the Director-General of Personnel and Administration.

Article 13

Maternity leave

1. An SNE who is pregnant shall be granted maternity leave of 20 weeks, during which period she shall receive the allowances provided for in Article 15. The leave shall begin not earlier than six weeks before the probable date of delivery indicated in the certificate and shall end not earlier than 14 weeks after the date of delivery. In the event of multiple or premature birth or birth of a handicapped child, the period of leave shall be 24 weeks. For the purposes of this provision, a premature birth shall be one which occurs before the end of the 34th week of pregnancy.

2. Where the national legislation of the SNE's employer grants longer maternity leave, the secondment shall be suspended for the period exceeding that granted by the GSC. In that case a period equivalent to the suspension shall be added at the end of the secondment if the interests of the GSC warrant it.

3. An SNE may, alternatively, apply for a suspension of the secondment to cover the whole of the period allowed for maternity. In that case a period equivalent to the suspension shall be added at the end of the secondment if the interests of the GSC warrant it.

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Article 14

Management and control

Management and control of leave shall lie with the administration of the GSC. Control of working time and absences shall be the responsibility of the Directorate-General or department to which the SNE is assigned.

CHAPTER III

ALLOWANCES AND EXPENSES

Article 15

Allowances

1. An SNE shall be entitled to a daily subsistence allowance throughout the period of secondment. Where the distance between the place of origin and the place of secondment is 150 km or less, the daily allowance shall be ►**M5** EUR 31,92 ◄. Where the distance is more than 150 km, the daily allowance shall be ►**M5** EUR 127,65 ◄.

2. If the SNE has not received removal expenses from either the GSC or from the employer, an additional monthly allowance shall be paid as shown in the table below:

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Distance between place of origin and place of secondment (in km)	Amount in EUR
0 - 150	0,00
> 150	82,05
> 300	145,86
> 500	237,05
> 800	382,92
> 1 300	601,73
> 2 000	720,27

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This allowance shall be paid monthly in arrears. It shall be payable until the end of the month in which, where applicable, the SNE has effected his removal under the terms of Article 19(1).

3. These allowances shall be payable for periods of mission, annual leave, maternity leave, special leave and holidays granted by the GSC.

4. When the SNE starts the secondment, he shall receive an advance amount equivalent to 75 days of the subsistence allowance, whereupon entitlement to any further such allowances shall cease during the corresponding period. If the secondment to the GSC is ended before the expiry of the period taken into account to calculate the advance, the SNE shall be obliged to return the amount corresponding to the remaining part of that period.

5. At the time of the exchange of letters provided for in Article 1(5) the GSC shall be informed of any payment similar to that mentioned in paragraphs 1, 2, 7 and 8 of this Article received by the SNE. Any such amounts shall be deducted from the corresponding allowances paid by the GSC.

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6. Daily and monthly allowances shall be adjusted each year without retroactive effect on the basis of the adaptation of the basic salaries of Community officials in Brussels and Luxembourg.

7. For SNEs seconded to a GSC Liaison Office or to any other place where the Union operates under a decision adopted by the Council, the allowances referred to in paragraphs 1 and 2 may be replaced by a housing allowance where this is justified by circumstances relating to accommodation costs at the place of secondment, subject to a reasoned decision by the Director-General of Personnel and Administration.

8. A special allowance, determined on the basis of the place of secondment, if this place is situated outside the EU, to take account of the cost of living or particularly difficult living conditions, may be granted subject to a reasoned decision by the Director-General of Personnel and Administration. This allowance shall be paid monthly and shall be fixed at between 10 and 15 % of the basic salary of an official in step 1 of grade AD 6 or grade AST 4, depending on the function group to which he is assimilated.

Article 16

Additional flat-rate allowance

1. Except where the place of origin of an SNE is 150 km or less from the place of secondment, he shall, where appropriate, receive an additional flat-rate allowance equal to the difference between the gross annual salary (less family allowances) paid by his employer plus any allowances paid by the GSC, pursuant to Article 15, and the basic salary payable to an official in step 1 of grade AD 6 or grade AST 4, depending on the function group to which he is assimilated.

2. This allowance shall be adjusted once a year without retroactive effect on the basis of the adaptation of the basic salaries of Community officials.

Article 17

Places of recruitment, secondment, origin and return

1. For the purposes of these rules,

— the place of recruitment shall be the place where the SNE performed his duties for the employer immediately prior to secondment,

— the place of secondment shall be the place where the GSC department or office to which the SNE is assigned is located, or the place where the SNE operates under a decision adopted by the Council,

— the place of origin shall be the place where his employer's head office is located,

— the place of return shall be the place where the SNE will perform his main activity after the secondment is terminated.

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2. If either the place of recruitment or the place of return is located outside the territory of the European Union or in a Member State other than that in which the SNE employer's head office is located or, if the SNE does not pursue a professional activity after his secondment is terminated, the place of origin shall be considered to be the place of recruitment or place of return, as appropriate.

The place of recruitment, the place or places of secondment and the place of origin shall be determined in the exchange of letters referred to in Article 1(5). The place of return shall be determined on the basis of a declaration by the SNE's employer.

3. For the purposes of applying this Article, circumstances arising from work done by SNEs for a State other than that of the place of secondment or for an international organisation shall not be taken into account.

Article 18

Travel expenses

1. An SNE whose place of recruitment is more than 150 km from the place of secondment shall be entitled to reimbursement of travel expenses:

(a) for himself;

(b) for his spouse and dependent children, provided that they live with the SNE and that the removal is reimbursed by the GSC.

2. Unless the journey is made by air, the amount shall be reimbursed at a flat rate, limited to the cost of the second-class rail fare, without supplements. This shall also apply to journeys made by car. Where the rail journey exceeds 500 km or where the standard route involves a sea-crossing, air travel may be reimbursed up to the actual cost of a reduced-price ticket (PEX or APEX), on production of tickets and boarding cards.

3. An SNE shall be entitled to reimbursement for himself and, if applicable, for the persons referred to in paragraph 1(b), of travel expenses to the place of return at the end of the secondment within the above limits. The reimbursement may not be for a sum higher than that to which the SNE would have been entitled if he had returned to his place of recruitment.

4. If an SNE has effected his removal from his place of recruitment to his place of secondment, he shall be entitled each year to a flat-rate payment equal to the cost of a return journey from his place of secondment to his place of origin for himself, his spouse and any dependent children, on the basis of the provisions in force at the GSC.

Article 19

Removal expenses

1. An SNE may remove his furniture and his personal effects from the place of recruitment to the place of secondment, at the GSC's expense, after obtaining its prior authorisation, pursuant to the rules in force at the GSC concerning reimbursement of removal expenses, provided the following conditions are met:

(a) the initial period of secondment must be for two years;

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(b) the SNE's place of recruitment must be 100 km or more from the place of secondment;

(c) the removal must be completed within six months of the starting date of the secondment;

(d) authorisation must be requested at least two months before the intended date of removal;

(e) the removal costs are not being refunded by the employer;

(f) the SNE must send originals of estimates, receipts and invoices to the GSC and a certificate from the SNE's employer confirming that the employer is not bearing the removal costs.

2. Subject to paragraph 3, where the removal to the place of secondment has been reimbursed by the GSC, the SNE shall be entitled at the end of the secondment, after prior authorisation, to reimbursement of removal costs from the place of secondment to the place of return, pursuant to the rules in force in the GSC concerning reimbursement of removal costs, subject to fulfilment of the conditions set out in paragraph 1(d) and (e) above and the following further conditions:

(a) the removal cannot take place earlier than six months before the end of the secondment;

(b) the removal must be completed within six months following the end of the secondment;

(c) the amount of removal expenses reimbursed by the GSC for the removal at the end of the secondment may not exceed the amount of the removal expenses to which he would have been entitled if he had returned to his place of recruitment;

(d) after sending the originals of estimates received and the invoice for the removal to the GSC, and a declaration by the SNE's employer confirming that the employer is not bearing all or part of the removal costs.

3. An SNE whose secondment is terminated at his request or at the employer's request within two years of the start of the secondment shall not be entitled to reimbursement of removal costs at the end of the secondment.

Article 20

Missions and mission expenses

1. An SNE may be sent on mission subject to Article 4.

2. Mission expenses shall be reimbursed in accordance with the provisions in force at the GSC.

Article 21

Training

An SNE shall be entitled to attend training courses organised by the GSC, if the interests of the GSC warrant it. The reasonable interests of the SNE, having regard in particular to his professional career after the secondment, shall be considered when a decision on permission to attend courses is taken.

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Article 22

Administrative provisions

1. The SNE shall report to the relevant department of the Directorate-General for Personnel and Administration on the first day of secondment to complete the requisite administrative formalities. He shall take up his duties on either the first or the 16th of the month.

2. An SNE assigned to a GSC liaison office shall report to the relevant department of the GSC at his place of secondment.

3. Payments shall be made by the appropriate department of the GSC, in euro, into a bank account opened at a banking institution in Brussels. In the case of an SNE seconded to a place other than Brussels, payments may be made in euro into a bank account opened at a banking institution either in Brussels or at the SNE's place of origin. The accommodation allowance may be paid in another currency into a bank account opened at a banking institution at the place of secondment.

CHAPTER IV

NATIONAL EXPERTS ON FREE SHORT-TERM SECONDMENT

Article 23

SNEs on free short-term secondment

1. For the purposes of this Decision, an SNE on free short-term secondment (SNE-FSTS) shall mean a highly specialised SNE seconded to perform very specific duties for a maximum period of three months. Such secondment entails the payment of no allowances or expenses for the Council except, where appropriate, those provided for in Article 28 and without prejudice to a different agreement between the GSC and the administration which seconds the SNE-FSTS.

2. An SNE-FSTS may be seconded only in exceptional cases, with the authorisation of the Deputy Secretary-General. An SNE-FSTS may be seconded only for the purposes of performing duties which it would be difficult to have performed in the GSC within a very short time span. Such duties include:

— fact-finding missions,

— the planning and appraisal of specific crisis management operations,

— participation in specific crisis management exercises.

3. Subject to Articles 23 to 28, the rules laid down in Articles 1 to 14 and 20 to 22 shall also apply to SNEs-FSTS.

4. Without prejudice to Article 5, an SNE-FSTS's conduct must always reflect the fact that he is seconded to the Council and must never reflect adversely on his position.

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Article 24

Period of secondment

1. The period referred to in Article 23(1) may be extended once, for a maximum period of three months.

2. An SNE-FSTS who has been seconded to the GSC may be seconded again in accordance with the rules laid down in this Decision and always subject to the following conditions:

— a minimum period of one year must have elapsed between the end of the previous period of secondment and a further secondment if the SNE is seconded subject to the rules of this chapter,

— a minimum period of three years must have elapsed between the end of the previous period of secondment and a further secondment if the SNE is seconded subject to the rules set out in Article 1 of this Decision.

3. In exceptional cases, the period indicated in the first indent of paragraph 2 may be shortened by decision of the Deputy Secretary-General.

Article 25

Scope

1. In the exchange of letters provided for in Article 1(5) reference shall be made to the person in charge within the directorate-general or directorate, unit, mission or exercise to which the SNE-FSTS will be seconded and the duties to be performed by the latter shall be described in detail.

2. As for the specific duties which devolve upon him, the SNE-FSTS shall receive instructions from the person in charge referred to in paragraph 1.

Article 26

Insurance

Without prejudice to Article 28 and notwithstanding Article 9(2), an SNE-FSTS will not be covered by the GSC against risks of accident.

Article 27

Working conditions

1. Notwithstanding Article 10(1), an SNE-FSTS shall abide by the rules in force as regards working hours at the place of secondment. These rules may be modified by the person in charge of the administrative unit, mission or exercise to which an SNE-FSTS is seconded where the needs of the department so require.

2. Notwithstanding the second sentence of Article 10(2), an SNE-FSTS shall work only on a full-time basis during his secondment.

3. Article 10(4) shall not apply to an SNE-FSTS.

4. The management and control of an SNE-FSTS's presence and holidays shall lie with the person in charge mentioned in Article 25(2).

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5. Article 12(3), (4) and (7) shall not apply to an SNE-FSTS. However, he may be granted special leave by decision of the Director-General of the department to which he is seconded, on the basis of a reasoned application submitted by him. Such leave may not exceed three days over the entire period of secondment. Before granting such leave, the Director-General referred to above must consult the Director-General of Personnel and Administration.

Article 28

Missions

1. If an SNE-FSTS takes part in missions in a place other than his place of secondment, he will be reimbursed in accordance with the rules in force for the reimbursement of missions involving officials, except where another arrangement has been agreed between the GSC and the administration which seconds an SNE-FSTS.

2. If, in connection with a mission, special 'high risk' insurance is provided by the GSC for officials, this facility shall also apply to an SNE-FSTS who is taking part in the same mission.

3. An SNE-FSTS who takes part in a mission outside the territory of the EU will be subject to the security arrangements in force in the GSC for such missions.

CHAPTER V

APPLICATION OF THE RULES TO SECONDED NATIONAL MILITARY STAFF

Article 29

Rules applying to seconded military staff

Subject to Articles 30 to 42, the rules laid down in the preceding chapters shall also apply to military staff seconded to the GSC in order to form the European Union Military Staff pursuant to Council Decision 2001/80/CFSP of 22 January 2001 on the establishment of the Military Staff of the European Union ([1]).

Article 30

Conditions

Seconded military staff must be on paid service in the armed forces of a Member State throughout their secondment. They must be nationals of a Member State.

Article 31

Recruitment

Notwithstanding the second sentence of Article 1(3), the Secretary-General/High Representative shall establish the arrangements for recruitment of seconded military staff.

([1]) OJ L 27, 30.1.2001, p. 7. Decision as amended by Decision 2005/395/CFSP (OJ L 132, 26.5.2005, p. 17).

▼B

Article 32

Exchange of letters

For the purposes of applying Article 1(5), the exchange of letters shall take place between the Secretary-General/High Representative and the Permanent Representation of the Member State concerned. This exchange of letters must also mention any restriction on an SNE's participation in missions.

Article 33

Length of secondment

1. Notwithstanding Article 2(1), the length of secondment may not be less than six months nor more than three years and it may be extended successively up to a total period not exceeding four years.

2. Notwithstanding Article 2(4)(b), except in exceptional cases, a period of at least three years must have elapsed between the end of the previous period of secondment and a further secondment, where the conditions so justify and in agreement with the Secretary-General/High Representative.

Article 34

Tasks

Notwithstanding Article 4(1), seconded military staff acting under the authority of the Secretary-General/High Representative shall fulfil the mission, carry out the tasks and perform the duties assigned to them in accordance with the Annex to Decision 2001/80/CFSP.

Article 35

External commitments

Notwithstanding the second subparagraph of Article 4(2), seconded military staff may not involve the GSC in an external commitment, except under a special mandate granted under the authority of the Secretary-General/High Representative.

Article 36

Security clearance

Notwithstanding Article 4(5), the appropriate level of the seconded military staff member's security clearance, which may not be lower than SECRET, must be stipulated in the exchange of letters referred to in Article 1(5).

Article 37

Professional experience

Notwithstanding Article 6(1), a military staff member working at administrative or advisory level and showing a high degree of competence for the duties to be carried out may be seconded to the GSC.

▼B

Article 38

Suspension and termination of secondment

1. Authorisation for Article 7(1) to be applied to a seconded military staff member shall be given by the Secretary-General/High Representative.

2. Notwithstanding Article 8(2), secondment may be terminated without notice if the interests of the GSC or of the seconded military staff member's national administration so require or for any other sufficient cause.

Article 39

Serious failure to comply with obligations

1. Secondment may be terminated without notice in serious cases of intentional or negligent failure of the seconded military staff member to comply with his obligations. Notwithstanding Article 8(2)(c), the decision shall be taken by the Secretary-General/High Representative after the person concerned has had an opportunity to submit his defence. Before taking a decision, the Secretary-General/High Representative shall notify the Permanent Representative of the Member State of which the seconded military staff member is a national. Following that decision, the allowances referred to in Articles 18 and 19 shall no longer be granted.

Prior to the decision referred to in the first subparagraph, a seconded military staff member may be suspended where serious failure to comply with his obligations is alleged against him by the Secretary-General/High Representative after the person concerned has been given an opportunity to submit his defence. The allowances referred to in Articles 15 and 16 shall not be paid during this suspension, which may not exceed three months.

2. The Secretary-General/High Representative shall inform the national authorities of any violation by a military staff member on secondment of the rules set out or referred to in this Decision.

3. A military staff member on secondment shall continue to be subject to his national disciplinary rules.

Article 40

Working hours

The second sentence of Article 10(2) shall not apply to seconded military staff.

Article 41

Special leave

Notwithstanding Article 12(4), unpaid additional special leave may be granted by the GSC for training by the employer, subject to a duly reasoned application by the employer.

▼B

Article 42

Allowances

Notwithstanding Article 15(1) and Article 16, the exchange of letters referred to in Article 1(5) may stipulate that allowances provided for therein will not be paid.

CHAPTER VI

FINAL PROVISIONS

Article 43

Repeals

Council Decision 2003/479/EC shall be repealed. However, it shall remain applicable to all secondments taking place at the time of the entry into force of this Decision, without prejudice to Article 44.

Article 44

Effect

This Decision shall take effect on the day of its publication in the *Official Journal of the European Union*.

It shall apply from the first day of the month following its entry into force to each new secondment or renewal of secondment.