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► **B****COUNCIL DECISION**

of 16 June 2003

concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council and repealing the Decisions of 25 June 1997 and 22 March 1999, Decision 2001/41/EC and Decision 2001/496/CFSP

(2003/479/EC)

(OJ L 160, 28.6.2003, p. 72)

Amended by:

		Official Journal		
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► <u>M1</u>	Council Decision 2004/240/EC of 8 March 2004	L 74	17	12.3.2004
► <u>M2</u>	Council Decision 2005/442/EC of 30 May 2005	L 153	32	16.6.2005
► <u>M3</u>	Council Decision 2006/471/EC of 27 June 2006	L 187	32	8.7.2006
► <u>M4</u>	Council Decision 2007/456/EC of 18 June 2007	L 173	27	3.7.2007
► <u>M5</u>	Council Decision 2008/451/EC of 16 June 2008	L 158	56	18.6.2008
► <u>M6</u>	Council Decision 2009/399/EC of 27 April 2009	L 127	8	26.5.2009
► <u>M7</u>	Council Decision 2010/248/EU of 26 April 2010	L 110	31	1.5.2010
► <u>M8</u>	amended by Council Decision 2011/138/EU of 28 February 2011	L 59	41	4.3.2011



COUNCIL DECISION

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concerning the rules applicable to national experts and military staff on secondment to the General Secretariat of the Council and repealing the Decisions of 25 June 1997 and 22 March 1999, Decision 2001/41/EC and Decision 2001/496/CFSP

(2003/479/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 the high level of their 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 to the GSC experts from Member States' administrations. It also seeks to ensure close collaboration between the Council and national administrations or international organisations, by means of the secondment of GSC officials to them.
- (3) SNEs should be drawn from governments or ministries 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.
- (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 the Decisions of 25 June 1997 and 22 March 1999, as well as in Decision 2001/41/EC and in Decision 2001/496/CFSP, those Decisions should be repealed,

HAS DECIDED AS FOLLOWS:



CHAPTER I

GENERAL PROVISIONS

Article 1

Scope

1. These Rules are applicable to seconded national experts (SNEs) seconded to the GSC by a national, regional or local public administration. 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 CFSP/ESPD, SNEs must be nationals of a Member State. SNEs shall be recruited on as wide a geographical basis as possible 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. 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. 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.
3. A 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;
 - (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 a 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.

▼B*Article 3***Place of secondment**

SNEs shall be seconded to Brussels or to a GSC liaison office.

*Article 4***Duties**

1. A 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. A 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.

The Director-General of the department concerned may in certain special circumstances derogate from this rule on the basis of a specific mandate given to the SNE, after verifying that there is no potential conflict of interest. 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 this 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 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 and 4, the GSC may terminate the secondment of the SNE under the terms of Article 8.

▼B*Article 5***Rights and obligations**

1. During the period of secondment:
 - (a) a SNE shall carry out his duties and shall behave solely with the interests of the Council in mind;
 - (b) a 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) a 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 a SNE in the performance of his duties shall be the property of the GSC;
 - (f) a SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities;
 - (g) a 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 tasks entrusted to him;
 - (h) a 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, a SNE shall exercise the greatest discretion with regard to all facts and information coming to his knowledge 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 a 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 a 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. A SNE shall be subject to the security rules in force in the GSC.
5. Failure to comply with the provisions of this Article during the period of secondment shall entitle the GSC to terminate the secondment of a SNE under the terms of Article 8.

▼B*Article 6***Level, professional experience and knowledge of languages**

1. To qualify for secondment to the GSC a SNE must have at least three years' full-time experience of administrative, scientific, technical, advisory or supervisory functions equivalent to those of category A or B as defined in the Staff Regulations of officials of the European Communities and the Conditions of employment 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. A 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.

*Article 8***Termination of periods of secondment**

1. Subject to paragraph 2, secondment may be terminated at the request of 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.

Article 10

Working hours

1. A SNE shall be subject to the rules in force in the GSC as regards working hours. These rules may be modified by the Deputy Secretary-General where the needs of the department so require.
2. A 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 for Personnel and Administration may authorise a SNE to work part time, after agreement from his employer.
3. Where part-time work is authorised, the SNE shall work at least half of the normal working time.
4. A SNE may work flexible hours only if authorised by the GSC department to which he is assigned. Authorisation shall be forwarded for information to the relevant unit of the Directorate-General for Personnel and Administration.
5. The allowances in force within the GSC for shift-work may be granted to SNEs.

Article 11

Absence for reasons of sickness or accident

1. In the event of absence for reasons of sickness or accident, a 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, a SNE shall be required to produce a medical certificate for any further absence due to sickness.

▼B

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

- marriage of the SNE: two days annually,
- serious illness of spouse: up to three days,
- 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,
- birth of a child: two days,
- serious illness of a child: up to two days annually,
- death of a child: four days.

4. Upon a duly justified request 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 accordingly.

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

*Article 13***Maternity leave**

1. A SNE who is pregnant shall be granted maternity leave of 16 weeks, during which period she shall receive the allowances provided for in Article 15.

2. A SNE who is breastfeeding may on request, on the basis of a medical certificate attesting the fact, be granted special leave for a maximum of four weeks running from the end of her maternity leave, during which period she shall receive the allowances laid down in Article 15.

▼B

3. Where the national legislation of the employer of the SNE 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.

4. A SNE may, alternatively, apply for a suspension of the secondment to cover the whole of the periods allowed for maternity and breastfeeding leave. 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.

*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***Subsistence allowances****▼M1**

1. A SNE shall be entitled to a daily subsistence allowance throughout the period of secondment. Where the distance between the place of residence and the place of secondment is 150 km or less, the daily allowance shall be ►**M7** ►**M8** EUR 31,89 ◄ ◄. Where the distance is more than 150 km, the daily allowance shall be ►**M7** ►**M8** EUR 127,52 ◄ ◄.

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:

▼M7**▼M8**

Distance between place of origin and place of secondment (in km)	Amount in EUR
0 - 150	0,00
> 150	81,96
> 300	145,72
> 500	236,81
> 800	382,54
> 1 300	601,13
> 2 000	719,55

▼ M1

This allowance shall be paid monthly in arrears.

▼ B

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

▼ M1

4. SNEs who during the three years ending six months before the secondment habitually resided or pursued their principal professional activity at a location situated at a distance of 150 km or less from the place of secondment shall receive a daily subsistence allowance of ► **M7** ► **M8** EUR 31,89 ◀ ◀. For the purpose of this provision, 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.

▼ B

5. 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 is obliged to return the amount corresponding to the remaining part of that period.

6. 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 paragraph 1 of this Article received by the SNE. Any such amounts shall be deducted from the allowance paid by the GSC pursuant to the said paragraph 1.

7. 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.

8. For SNEs seconded to a GSC Liaison Office, the subsistence allowances referred to in this Article may be replaced by a housing allowance where this is justified by the specific circumstances of the country of secondment, subject to a reasoned decision by the Director-General for Administration and Protocol.

Article 16

Additional flat-rate allowance

1. Except where the place of residence of a 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 the subsistence allowances paid by the GSC and the basic salary payable to an official in step 1 of grade A 8 or grade B 5, depending on the category to which he is assimilated.

▼B

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***Place of residence**

1. For the purposes of these rules, the place of residence 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 to which the SNE is assigned is located. Both places shall be identified in the exchange of Letters mentioned in Article 1(5).

2. If, on secondment as a SNE, a national expert is already on secondment on behalf of his employer in a place other than that in which the latter's head office is located, the place of residence shall be whichever of the two is closer to the place of secondment.

3. The place of residence shall be deemed to be the place of secondment where:

- (a) during the three years ending six months before the secondment, the SNE habitually resided or pursued his principal professional activity at a place situated 150 km or less from the place of secondment; or
- (b) at the time of the GSC's request for the secondment, the place of secondment is the principal residence of the SNE's spouse or of any of his dependent children.

To that end, residence at 150 km or less from the place of secondment is to be treated as residence at that place.

4. 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. A SNE whose place of residence is more than 150 km from the place of secondment is entitled to reimbursement of travel expenses:

- (a) for himself/herself:

- from the place of residence to the place of secondment at the beginning of the period of secondment;
- from the place of secondment to the place of residence at the end of the period of secondment;

▼B

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

- at the beginning of the secondment, on removal from the place of residence to the place of secondment;

- at the end of the secondment, from the place of secondment to the place of residence.

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 actual cost of a reduced-price ticket (PEX or APEX), on production of tickets and boarding cards.

3. By way of derogation from paragraph 1, SNEs who prove that they have changed the place at which they will pursue their principal activity after the secondment shall be entitled to reimbursement of travel expenses to that place within the above limits. The reimbursement may not involve payment of a sum higher than that to which the SNE is entitled in the event of return to the place of residence.

4. If a SNE has effected his removal from his place of residence to his place of secondment, he will 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 residence for himself, his spouse and any dependent children on the basis of the provisions in force at the GSC.

Article 19

Removal expenses

1. Unless the second sentence of Article 15(4) applies, a SNE may remove his personal effects from the place of residence to the place of secondment, at the GSC's expense, after obtaining its prior authorisation, pursuant to rules in force at the GSC at the time concerning reimbursement of removal costs, provided the following conditions are met:

- (a) the initial period of secondment must be for two years;
- (b) the SNE's place of residence 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 removal costs.

▼B

2. Subject to paragraphs 3 and 4, 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 residence, pursuant to rules in force in the GSC at the time concerning reimbursement of removal costs, subject to the conditions set out in paragraph 1(d), (e) and (f) above and the following further conditions:

- (a) the removal cannot take place earlier than three months before the end of the secondment;
- (b) the removal must be completed within six months following the end of the secondment.

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

4. Where the SNE proves that the place where he will pursue his principal activity after secondment has changed, removal costs to that new place may be reimbursed, but only up to the amount which would have been paid in the case of removal to the place of residence.

*Article 20***Missions and mission expenses**

- 1. A 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**

A 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.

*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. A SNE assigned to a GSC liaison office shall report to the relevant department of the GSC in 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 the place of secondment.



CHAPTER IV

**APPLICATION OF THE RULES TO SECONDED NATIONAL
MILITARY STAFF***Article 23***Rules applying to seconded military staff**

Subject to Articles 24 to 33, these Rules 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 24***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 25***Recruitment**

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

*Article 26***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.

*Article 27***Length of secondment**

1. By way of derogation from 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. By way of derogation from Article 2(3)(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 new secondment, where the conditions so justify and in agreement with the Secretary-General/High Representative.

⁽¹⁾ OJ L 27, 30.1.2001, p. 7.

▼B*Article 28***Tasks**

By way of derogation from 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 29***External commitments**

By way of derogation from 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 30***Security clearance**

By way of derogation from 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 31***Professional experience**

By way of derogation from 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.

*Article 32***Suspension and termination of secondment**

1. Authorisation for Article 7 to be applied to a seconded military staff member shall be given by the Secretary-General/High Representative.
2. By way of derogation from Article 8, secondment may be terminated 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 33***Serious failure to comply with obligations**

1. By way of derogation from Article 8(3), 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. 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 his 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. Further to that decision, the allowances referred to in Articles 18 and 19 shall no longer be granted.

▼B

Prior to the decision referred to in the first paragraph, 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 may bring to the attention of national authorities 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 34***Working hours**

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

*Article 35***Special leave**

By way of derogation from Article 12(4), unpaid additional special leave may be granted by the GSC for training by the employer subject to a duly reasoned request by the employer.

*Article 36***Allowances**

By way of derogation from 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.

*Article 37***Place of residence**

1. The seconded military staff member is considered as having his place of residence in the capital of the Member State of which he is a national, when, pursuant to Article 17(1), (2) and (3)(a), his place of residence is situated at 150 km or less from the place of secondment.

2. The seconded military staff member is considered as having his place of residence in the capital of the Member State of which he is a national when the place of principal residence of the spouse or of the child (children) referred to in Article 17(3)(b) is situated in a Member State other than that of secondment.



CHAPTER V
FINAL PROVISIONS

Article 38

Repeals

The following Decisions shall be repealed:

- Council Decision of 25 June 1997 on the rules applicable to national experts on detachment to the General Secretariat of the Council (Directorate-General for Justice and Home Affairs) in the context of implementation of the plan to step up the fight against organised crime,
- Council Decision of 22 March 1999 on the rules applicable to national experts on detachment to the General Secretariat of the Council (Directorate-General for Justice and Home Affairs) in the context of the collective evaluation of the enactment, application and effective implementation by the applicant countries of the *acquis* of the European Union in the field of Justice and Home Affairs,
- Council Decision 2001/41/EC of 22 December 2000 on the rules applicable to national experts on detachment to the General Secretariat of the Council in the context of an exchange system for officials of the General Secretariat of the Council of the European Union and officials of national administrations or of international organisations ⁽¹⁾, and
- Council Decision 2001/496/CFSP of 25 June 2001 on the rules applicable to national military staff on secondment to the General Secretariat of the Council in order to form the European Union military staff ⁽²⁾.

Article 39

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.

⁽¹⁾ OJ L 11, 16.1.2001, p. 35. Decision as amended by Decision 2002/34/EC (OJ L 15, 17.1.2002, p. 29).

⁽²⁾ OJ L 181, 4.7.2001, p. 1. Decision as amended by Decision 2002/34/EC.