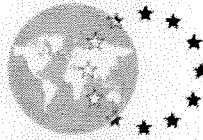


**HR DEC(2014) 01**

**EUROPEAN EXTERNAL ACTION SERVICE**



GREFFE – Secretariat of Corporate Board EEAS

**Decision of the High Representative of the Union for Foreign Affairs  
and Security Policy**

**of 04/02/2014**

**establishing the rules applicable to National Experts seconded to the European  
External Action Service**

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**Decision of the High Representative of the Union for Foreign Affairs and Security  
Policy**

**of 04/02/2014**

**establishing the rules applicable to National Experts seconded to the European  
External Action Service**

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The High Representative,

Having regard to the Council Decision of 26 July 2010 establishing the organisation and functioning of the European External Action Service (2010/427/EU), in particular Article 6(3) thereof,

having regard to the Decision 2012/C 12/04 of the High Representative of the Union for Foreign Affairs and Security Policy of 23.3.2011<sup>1</sup> establishing the rules applicable to National Experts seconded to the European External Action Service,

Whereas:

1. According to Article 6(3) of the Council Decision establishing the European External Action Service<sup>2</sup> (“EEAS”) (“the Council Decision”) the EEAS may, in specific cases, have recourse to a limited number of specialised seconded national experts.
2. Seconded national experts (“SNEs”) should enable the EEAS to benefit from their high level of knowledge and professional experience, in particular in areas where such expertise is not readily available.
3. The secondment of national experts to the EEAS should foster the exchange of professional experience and knowledge of European policies.
4. SNEs should be drawn from public administrations in Member States, from international organizations or, in exceptional cases, from non-EU States or from non-profit organizations, such as research institutions, think tanks or others, where in the interest of the EEAS;

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<sup>1</sup> OJ C 12, 14.1.2012, p. 8

<sup>2</sup> OJ L 201, 3.8.2010, p.30

5. 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 interest of the EEAS.
6. This Decision should set out all the conditions of employment of SNEs with a view to ensuring the full integration of SNEs in the EEAS without prejudice to the specificities of the SNE status. Furthermore, SNEs should receive regular feedback about their professional performance and conduct in the service.
7. Special provision should be made for military staff seconded to the EEAS to form the European Union Military Staff and to military staff seconded to the Crisis Management and Planning Directorate.
8. Special provision should be made for SNEs seconded to Union delegations. Inequality of treatment between SNEs from different institutions (principally from the European Commission and the EEAS) in Union Delegations should be avoided where possible.

Has adopted this Decision.

## **CHAPTER I**

### **GENERAL PROVISIONS**

#### *Article 1*

##### **Scope**

1. These rules are applicable to national experts (SNEs) seconded to the European External Action Service (EEAS) by Member States' public administrations. They shall also apply to experts on secondment from an international organisation.
2. In exceptional cases, and with the prior authorisation by the Managing Director for Administration and Finance, the EEAS may agree to the secondment of national experts from non-EU States' public administrations. In such case, the EEAS shall ensure that there is no conflict of interest and that the independence and coherence of the EU foreign policy is safeguarded. Under the same conditions, seconded experts may also be recruited from non-profit organisations, such as research centers or think tanks.

3. 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.
4. The EEAS shall recruit SNEs in accordance with requirements and budgetary possibilities. The Human Resources Department shall establish the arrangements for such recruitment.
5. The Member States and the EEAS shall cooperate to ensure, as far as possible, that recruitment of SNEs to the EEAS is based on merit whilst ensuring adequate geographical and gender balance, in particular to ensure a meaningful presence of nationals from all the Member States.
6. Secondment shall be implemented by an exchange of letters between the EEAS Managing Director for Administration and Finance and the Permanent Representation of the Member State concerned, or the international organisation, or other relevant authority as appropriate. The place of secondment must be indicated in the exchange of letters. The rules applicable to SNEs on secondment to the EEAS and all other relevant information shall be publicly available and updated on the EEAS website. .

## *Article 2*

### **Period of secondment**

1. The initial period of secondment may not exceed two years and may be renewed successively up to a total period not exceeding four years. Exceptionally, at the request of the relevant Managing Director or equivalent, and where the interests of the service warrant it, the Human Resources Department may authorize one or more extensions of the secondment for a maximum of two more years at the end of the four year period.
2. The intended period of secondment shall be fixed at the outset in the exchange of letters provided for in Article 1(6). The same procedure shall apply in the case of a renewal of the period of secondment.
3. An SNE who has already been seconded to the EEAS may be seconded again, subject to the following conditions:
  - a) the SNE must continue to meet the conditions for secondment; and
  - 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 an extension, the six-year period shall begin to run from the expiry of that extension.

This provision shall not prevent the EEAS from accepting the secondment, less than 6 years after the end of the first period of secondment, of an SNE whose initial secondment, including possible renewal and extensions, lasted for less than six years, but in that case the new secondment shall not exceed the unexpired part of the six-year period.

### ***Article 3***

#### **Place of secondment**

1. SNEs shall be seconded to the EEAS central administration in Brussels, or to a Union Delegation.
2. The place of secondment may be changed during the secondment by means of a further exchange of letters in accordance with Article 1(6) 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 the EEAS and carry out the tasks assigned to him/her. The duties carried out shall be defined by mutual agreement between the EEAS and the administration or organisation which seconds the national expert in the interest of the EEAS and taking into account the SNE's qualifications. Accordingly, the EEAS may entrust the SNE with specific tasks or duties and charge him/her with the conduct of one or more specific missions or meetings provided that there is no conflict of interest
2. The EEAS, through the SNE's line manager, shall retain sole responsibility for approving the results of tasks performed by the SNE.
3. The EEAS, 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 Human Resources Department 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 including, in particular, with reference to the SNE's employment experience.

4. The SNE shall be asked in particular to declare any potential conflict between his/her family circumstances (in particular the professional activities of close family members or any important financial interests of his/her own, or of close family members) and the proposed duties while on secondment. The employer and the SNE shall undertake to notify the SNE's line manager and the Human Resources Department of any change of circumstances during the secondment which could give rise to any such conflict.
5. In the event of failure to comply with the provisions of paragraphs 3 and 4, the EEAS may terminate the secondment of the SNE under the terms of Article 9(2)(c).

## *Article 5*

### **Rights and Obligations**

1. During the period of secondment:
  - a) the SNE shall carry out his/her duties objectively and impartially and shall behave solely with the interests of the EEAS in mind;
  - b) the SNE shall abstain from any action, and in particular any public expression of opinion, which may reflect on his/her position at the EEAS;
  - c) any SNE who, in the performance of his/her duties, is called upon to give a decision on the handling or outcome of a matter in which he/she has a personal interest that could impair his/her independence, shall inform his/her line manager;
  - d) the 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 from his/her line manager. 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/her duties shall be the property of the EEAS;

- f) the SNE shall reside at the place of secondment or at no greater distance therefrom than is compatible with the proper performance of his/her activities;
  - g) the SNE shall assist and tender advice to the superior to whom he/she is assigned and shall be responsible to his/her superior for the performance of the duties entrusted to him/her;
  - h) the SNE shall, in the exercise of his/her duties, accept no instructions from his/her employer or national government. He/she shall not undertake any activities for his/her employer, nor for governments nor for any other person, private company or public body.
2. Both during and after the period of secondment, the SNE shall exercise the greatest discretion with regard to all facts and information of which he/she becomes aware in the course of or in connection with the performance of his/her duties. He/she shall not in any form whatsoever disclose to any unauthorised person any document or information not already lawfully made public, nor shall he/she use it for personal gain.
  3. At the end of the secondment the SNE shall continue to be bound by the obligation to act with integrity and discretion in the exercise of new duties assigned to him/her and in accepting certain posts or advantages.
  4. SNEs shall be subject to the security rules in force in the EEAS.
  5. Failure to comply with the provisions of paragraphs 1, 2 and 4 during the period of secondment shall entitle the EEAS to terminate the secondment of an SNE under the terms of Article 9(2)(c).

## *Article 6*

### **Level, professional experience, knowledge of languages and security clearance**

1. To qualify for secondment to the EEAS, the 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 Union and the Conditions of Employment of other servants of the Union<sup>3</sup>.

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<sup>3</sup> Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968 (OJ L 56, 4.3.1968, p. 1) and successive amendments.



2. The SNE must have a thorough knowledge of one Union language and a satisfactory knowledge of a second language for the performance of his/her duties.
3. All SNEs will have the required security clearance for the functions that they will carry out. The level of security clearance will be stipulated in the exchange of letters referred to in Article 1(6).

## ***Article 7***

### **Selection Procedures**

1. SNEs shall be selected according to an open and transparent procedure, the practical details of which shall be decided by the Human Resources Department.

In duly justified exceptional circumstances, and in the interests of the service, an SNE may be selected without following such procedures. Authorisation for such derogation must be sought from the Chief Operating Officer.

2. Before the secondment, the line manager, through the Human Resources Department, must ensure that sufficient budget allocation is available.
3. Applications shall be forwarded to the Human Resources Department by the relevant Permanent Representation or other competent authority or entity.

## ***Article 8***

### **Suspension of secondment**

1. The Human Resources Department may authorise suspensions of secondment and specify the terms applicable. During such suspensions the allowances referred to in Articles 16 shall not be payable.
2. The Human Resources Department shall inform the SNE's employer.

## ***Article 9***

### **Termination of periods of secondment**

1. Subject to paragraph 2, secondment may be terminated at the request of the EEAS (agreed by the Human Resources Department and the relevant Managing Director

or equivalent) 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 agreement of the Human Resources Department and the relevant Managing Director or equivalent.

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 Human Resources Department and the relevant Managing Director or equivalent and the employer, at the request of the SNE to both parties, if the SNE's essential personal or professional interests so require; or
  - c) by the EEAS (agreed by the Human Resources Department and the relevant Managing Director or equivalent) in the event of failure by the SNE to comply with his/her obligations under these rules. The SNE shall first be given an opportunity to submit his/her defence.
3. In the event of termination under paragraph 2(c), the Human Resources Department shall immediately inform the employer.

## **CHAPTER II**

### **WORKING CONDITIONS**

#### ***Article 10***

##### **Social security**

1. Before the period of secondment begins, the employer from which the SNE is to be seconded shall certify to the EEAS that, throughout the period of secondment, the SNE will remain subject to the social security legislation applicable to the public administration, international organisation or entity which employs the SNE and which will assume responsibility for expenses incurred abroad. To this end, the SNE's employer shall provide the Human Resources Department with the certificate referred to in Article 11(1) of Council Regulation No 574/72.<sup>4</sup>
2. From the commencement of his/her secondment, the SNE shall be covered by the EEAS against the risk of accident. The Human Resources Department shall provide him/her with a copy of the terms of this cover on the day on which he/she

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<sup>4</sup> OJ L 74, 27.03.1972, p.1.

reports to the relevant department of the EEAS 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 and 21, 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 EEAS.

### *Article 11*

#### **Working hours**

1. An SNE shall be subject to the rules in force in the EEAS as regards working hours..
2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request from the SNE's line manager, and subject to compatibility with the interests of the EEAS, the Human Resources Department may authorise an SNE to work part-time, after agreement from his/her 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 EEAS for shift-work or standby duty may be paid to SNEs.

### *Article 12*

#### **Absence for reasons of sickness or accident**

1. An SNE shall be subject to the rules in force in the EEAS regarding leave on grounds of sickness or accident.
2. Where the period of sick leave exceeds three months or the period of service performed by the SNE, whichever is the longer, the allowances referred to in Article 16(1) and (2) shall be automatically suspended. In such a case, the employer will be notified by the EEAS. 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.
3. 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 16 (1) and (2) throughout the period during which he/she is unfit for work up to the end of the period of secondment.

### ***Article 13***

#### **Annual leave, special leave and holidays**

1. With the exception of the provisions relating to grade, the rules in force on annual leave and special leave applicable to officials in the EEAS shall apply to SNEs.
2. Upon a duly substantiated application by the SNE's employer, up to three days of additional special leave in a 12-month period may be granted by the EEAS (the Human Resources Department and the relevant Managing Director or equivalent) on a case-by-case basis.
3. Days of annual leave not taken by the end of the period of secondment shall be forfeited.

### ***Article 14***

#### **Special provision on Maternity leave**

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

### ***Article 15***

#### **Management and control**

Management and control of leave shall lie with the SNE's line manager and the Human Resources Department. Control of working time and absences shall be the responsibility of the SNE's line manager.



**CHAPTER III**  
**ALLOWANCES AND EXPENSES**

*Article 16*

**Allowances**

1. An SNE shall be entitled to a daily 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 EUR 31,92. Where the distance is more than 150 km, the daily allowance shall be EUR 127,65.
2. An SNE shall also be entitled to a monthly allowance in accordance with the following table:

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

These allowances shall cover SNEs' living expenses in the place of secondment on a flat-rate basis and shall not be construed as remuneration paid by the EEAS. These allowances shall be payable for periods of mission, annual leave, maternity leave, special leave and holidays granted by the EEAS.

3. When the SNE starts the secondment, he/she shall receive an advance amount equivalent to 75 days of the allowance, whereupon entitlement to any further such allowances shall cease during the corresponding period. If the secondment to the EEAS 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
4. At the time of the exchange of letters provided for in Article 1(6) the Human Resources Department shall be informed by the SNE's employer of any payment similar to that mentioned in paragraphs 1 and 2 of this Article received by the SNE. Any such amounts shall be deducted from the corresponding allowances paid by the EEAS. During the course of the secondment, the employer shall



inform the Human Resources Department of any change in allowances similar to the allowances paid by the EEAS received from other sources. This amount shall be adjusted accordingly to the allowances paid by the EEAS.

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

### ***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/her duties for the employer immediately prior to secondment,
  - the place of secondment shall be Brussels, or the Union delegation to which the SNE is assigned is located,
  - the place of origin shall be the place where his/her employer's head office is located,
  - the place of return shall be the place where the SNE will perform his/her main activity after the secondment is terminated.
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/her 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(6). 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 organization 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:
2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force in the EEAS
3. The SNE shall be entitled to reimbursement of travel expenses to the place of return at the end of the secondment. The reimbursement may not be for a sum higher than that to which the SNE would have been entitled if he/she had returned to his/her place of recruitment.

## ***Article 19***

### **Missions and mission expenses**

1. Mission expenses shall be reimbursed in accordance with the provisions in force at the EEAS.

## ***Article 20***

### **Training**

An SNE shall be entitled to attend training courses organised by the EEAS, if the interests of the EEAS warrant it. The reasonable interests of the SNE, having regard in particular to the performance of his professional duties and to his personal and professional advancement, shall be considered when the SNEs line manager takes the decision on permission to attend courses.

## ***Article 21***

### **Administrative provisions**

1. The SNE shall report to the Human Resources Department on the first day of secondment to complete the requisite administrative formalities.
2. An SNE assigned to a Union Delegation shall report to the Head of the Union Delegation at his/her place of secondment.

3. Payments shall be made by the EEAS, 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.

## **CHAPTER IV**

### **SNE'S SECONDED TO UNION DELEGATIONS**

#### ***Article 22***

#### **Rules applying to SNEs seconded to Union Delegations**

Subject to the rules set out in this Chapter, the rules laid down elsewhere in this Decision shall also apply to SNEs seconded to Union Delegations.

#### ***Article 23***

#### **Allowances**

1. The allowances referred to in Article 16 shall be paid in euros. They shall be subject to the weighting applicable to the remuneration of officials employed in Belgium.
2. By way of derogation from paragraph 1, the Human Resources Department may, at the SNE's request, authorise the payment of subsistence allowances in the currency of the place of secondment or, in exceptional and duly justified cases and in order to maintain purchasing power, in another currency. The allowances shall then be subject to the weighting provided for in Article 12 of Annex X to the Staff Regulations and converted at the corresponding exchange rate.
3. An allowance for living conditions, fixed according to the same criteria as those laid down in Article 10 of Annex X to the Staff Regulations, shall be paid to SNEs seconded to EU delegations in third countries. The daily allowance referred to in Article 16(1) of these Rules shall constitute the reference amount referred to in Article 10 of Annex X to the Staff Regulations.
4. Rest leave allowances provided for under Annex X of the Staff Regulations shall not be applicable.

## **CHAPTER V**

### **NATIONAL EXPERTS ON COST FREE SECONDMENT**

#### *Article 24*

##### **SNEs on cost-free secondment**

1. For the purposes of this Decision, a “cost-free SNE” shall mean an SNE for whom the EEAS does not pay any of the allowances provided for in Chapters III or IV or cover any of the expenses provided for in this Decision, other than those related to the performance of their duties during their secondment, and without prejudice to any different agreement between the EEAS and the administration, international organisation or entity which seconds the cost-free SNE.
2. The Human Resources Department may, on request by the relevant Managing Director or equivalent, authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin, the Department in question, the geographical balance and the work to be carried out.
3. The exchange of letters referred to in article 1 (6) shall clearly specify when a secondment will take place on a cost-free basis.

## **CHAPTER VI**

### **APPLICATION OF THE RULES TO SECONDED NATIONAL MILITARY STAFF**

#### *Article 25*

##### **Rules applying to seconded military staff**

Subject to the rules in this chapter, the rules laid down elsewhere in this Decision shall also apply to military staff seconded to the EEAS in order to form the European Union Military Staff (“EUMS”) pursuant to Council Decision 2001/80/CFSP of 22 January 2001 on the establishment of the Military Staff of the European Union,<sup>5</sup> as amended<sup>6</sup> and those military staff seconded to the EEAS Crisis Management and Planning Directorate.

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<sup>5</sup> OJ L 27, 30.1.2001, p.7

<sup>6</sup> Council Decision 2005/395/CFSP of 10 May 2005 (OJ L 132, 26.5.2005, p. 17–24).



## ***Article 26***

### **Conditions**

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

## ***Article 27***

### **Recruitment**

The Director General of the EUMS shall establish the arrangements for recruitment of seconded military staff.<sup>7</sup> These arrangements shall also be applicable to the recruitment of military staff seconded to the CMPD.

## ***Article 28***

### **Exchange of letters**

1. The exchange of letters referred to in Article 1(6) shall take place between the Managing Director for Administration and Finance and the Permanent Representation of the Member State concerned for the Director General of the EUMS, the Deputy Director General of the EUMS all Director appointments and the CMPD Senior Military Adviser, and between the Director General of the EUMS and the Permanent Representation of the Member State concerned for all other appointments.
2. This exchange of letters must also mention any restriction on an SNE's participation in missions.
3. For military staff seconded to EU Delegations, the exchange of letters shall be signed by Director General for Administration and Finance.

## ***Article 29***

### **Length of secondment**

1. The initial length of secondment may not be more than four years and it may be extended up to a total period not exceeding five years.

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<sup>7</sup> EUMS Manning and Turnover Policy, Document 5402/2011.



2. 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 Director General of the EUMS.

### ***Article 30***

#### **Tasks**

Notwithstanding Article 4, seconded military staff acting under the authority of the 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, as amended.

### ***Article 31***

#### **Security clearance**

The appropriate level of the seconded military staff member's security clearance must be stipulated in the exchange of letters referred to in Article 1(6) and may not be lower than EU SECRET.

### ***Article 32***

#### **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 EEAS.

### ***Article 33***

#### **Suspension and termination of secondment**

1. Authorisation for Article 8(1) to be applied to a seconded military staff member shall be given by the Director General of the EUMS.

2. Notwithstanding Article 9(2), secondment may be terminated without notice if the interests of the EEAS or of the seconded military staff member's national administration so require or for any other sufficient cause.

#### ***Article 34***

##### **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/her obligations. Notwithstanding Article 9(2)(c), the decision shall be taken by the Director General of the EUMS after the person concerned has had an opportunity to submit his/her defence. Before taking a decision, the Director General of the EUMS shall notify the Permanent Representative of the Member State of which the seconded military staff member is a national. 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/her obligations is alleged against him by the Director General of the EUMS after the person concerned has been given an opportunity to submit his/her defence. The allowances referred to in Article 16 shall not be paid during this suspension, which may not exceed three months.
2. The Director General of the EUMS 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/her national disciplinary rules.

#### ***Article 35***

##### **Working hours**

The second sentence of Article 11(2) shall not apply to seconded military staff.

#### ***Article 36***

##### **Special leave**

Unpaid additional special leave may be granted by the EEAS for training by the employer, subject to a duly reasoned application by the employer.

### ***Article 37***

#### **Allowances**

The exchange of letters referred to in Article 1(6) may stipulate that allowances provided for in Article 16 will not be paid.

## **CHAPTER VII**

### **FINAL PROVISIONS**

### ***Article 38***

#### **Complaints**

1. Without prejudice to the possibilities for instituting proceedings after taking up his position, under the conditions and time limits laid down in Article 263 of the Treaty on the Functioning of the European Union, any SNE may submit a complaint to the Human Resources Department about an act adopted by the EEAS under this Decision which adversely affects him, with the exception of decisions which are direct consequences of decisions taken by his employer.
2. The complaint must be lodged within two months. The period shall start to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification. The Human Resources Department shall notify the person concerned of its reasoned decision within four months of the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it.

### ***Article 39***

#### **Transitional measures and repeals**

The Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 23.03.2011 is repealed and replaced by the present Decision.

However, Articles 16, 17, 19 and 20 of the Decision of the High Representative of the Union for Foreign Affairs and Security Policy of 23.03.2011 shall remain applicable to all secondments taking place at the time of the entry into force of this Decision, and to the subsequent extension of these secondments.

**Article 40**

**Effect**

This Decision shall take effect on the day of its adoption.



The High Representative,