

(Acts adopted pursuant to Title V of the Treaty on European Union)

COUNCIL DECISION
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

(2001/496/CFSP)

THE COUNCIL OF THE EUROPEAN UNION,

Article 2

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

Period of secondment

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

1. Military staff on secondment may be seconded for a maximum of three years. In exceptional cases, and taking account of particular tasks to be performed, the secondment may be extended for a period of up to one year.

Whereas:

They shall serve on a full-time basis throughout the period of secondment.

- (1) On 22 January 2001 the Council adopted Decision 2001/79/CFSP setting up the Military Committee of the European Union ⁽¹⁾.
- (2) On 22 January 2001 the Council adopted Decision 2001/80/CFSP on the establishment of the Military Staff of the European Union ⁽²⁾.
- (3) Members of the Military Staff are subject to rules which will be established in a Council Decision.
- (4) It is therefore appropriate to establish these rules,

2. The probable period of secondment shall be fixed at the outset in the Exchange of Letters mentioned in Article 18(2).

3. As a general rule, no military staff may be seconded to the General Secretariat more than once. However, a member of military staff who has already been seconded may be the subject of a fresh secondment measure after at least three years, save in exceptional cases, have elapsed between the end of the prior secondment and the fresh secondment, if conditions justify this and by agreement with the Secretary-General/High Representative.

HAS DECIDED AS FOLLOWS:

Article 3

CHAPTER I

Duties

GENERAL PROVISIONS

Article 1

Definition

1. These rules apply to national military staff, hereinafter 'military staff', on secondment to the Council General Secretariat, hereinafter 'General Secretariat', in accordance with Decision 2001/80/CFSP.

1. Acting under the authority of the Secretary-General/High Representative, military staff on secondment 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.

2. The persons covered by these rules shall remain in paid employment in an armed force of a Member State of the European Union throughout the period of secondment.

2. Unless special instructions to the contrary are given under the authority of the Secretary-General/High Representative, military staff on secondment shall not enter into any commitment on the General Secretariat's behalf with third parties.

3. Military staff on secondment shall be nationals of a Member State of the European Union.

Article 4

Level, professional experience and knowledge of languages

1. To qualify for secondment to the General Secretariat, military staff must work at administrative or advisory level and show a high degree of competence for the duties to be carried out.

⁽¹⁾ OJ L 27, 30.1.2001, p. 4.

⁽²⁾ OJ L 27, 30.1.2001, p. 7.

2. Seconded military staff must have a thorough knowledge of one of the languages of the European Union and a satisfactory knowledge of another to the extent necessary to carry out the duties involved.

3. The appropriate level of security clearance for seconded military staff, which must not be lower than SECRET, must be stipulated in the Exchange of Letters mentioned in Article 18(2).

4. Seconded military staff must have a good knowledge of the use of information technologies.

Article 5

Social security

1. Before the period of secondment begins, the public administration from which a military staff member is to be seconded must certify to the General Secretariat that he will remain subject through the period of secondment to the social security legislation applicable to the public administration which employs him and which will assume responsibility for expenses incurred abroad.

2. From the day a seconded military staff member takes up duty, he shall have personal cover against the risk of accidents on the same terms as General Secretariat employees not covered by the Staff Regulations.

Article 6

Breaks in or termination of periods of secondment

1. The Secretary-General/High Representative may authorise breaks in periods of secondment and specify the terms applicable. The allowances referred to in Articles 12 and 13 shall not be payable during such breaks. The allowances referred to in Articles 14 and 15 when applicable shall be paid only if the break is at the Secretary-General/High Representative's request.

2. Periods of secondment may be terminated if the interests of the General Secretariat or of the national administration of the seconded military staff member so require or for any other sufficient cause.

CHAPTER II

RIGHTS AND OBLIGATIONS

Article 7

1. A seconded military staff member shall carry out his duties and conduct himself solely with the interests of the Council in mind.

2. A seconded military staff member shall abstain from any action, and in particular any public expression of opinion, which may reflect on his position.

3. Any seconded military staff member who, in the performance of his duties, is called upon to pronounce on a matter in the handling or outcome of which he has a personal

interest such as to impair his independence shall inform the head of the department to which he is assigned.

4. A seconded military staff member 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 legally made public. He shall continue to be bound by this obligation after his period of secondment has terminated.

5. Seconded military staff 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 General Secretariat.

6. Seconded military staff shall be subject to the security rules and regulations in force in the General Secretariat.

7. All rights in any work done by a seconded military staff member in the performance of his duties shall be the property of the General Secretariat.

8. A seconded military staff member shall reside at his place of employment or at no greater distance therefrom than is compatible with the proper performance of his duties.

9. A seconded military staff member shall assist and provide advice to the superiors to whom he is assigned. He shall be responsible to them for performance of the tasks entrusted to him.

10. A period of secondment may be terminated without notice in serious cases of intentional or negligent failure of a seconded military staff member to comply with his obligations. A decision shall be taken by the Secretary-General/High Representative after the military staff member concerned has been given an opportunity of submitting his defence. Before taking his decision, the Secretary-General/High Representative shall inform the Permanent Representative of the Member State of which the seconded military staff member is a national of that decision. Following the decision, the allowances referred to in Articles 14 and 15 shall not be granted.

Before the decision referred to in the first subparagraph, a seconded military staff member may be suspended where serious failure is alleged against him by the Secretary-General/High Representative after the military staff member concerned has been given an opportunity of submitting his defence. The allowances referred to in Articles 12 and 13 shall not be paid during this suspension, which may not exceed three months.

The Secretary-General/High Representative may bring to the attention of national authorities any violation by the seconded military staff member of the rules set out or referred to in the present Decision.

A seconded military staff member shall continue to be subject to his national disciplinary rules.

CHAPTER III

WORKING CONDITIONS*Article 8***Hours of work**

1. Seconded military staff shall be bound by the rules on hours of work in force at the General Secretariat.
2. However, seconded military staff shall not be authorised to work half-time.

*Article 9***Leave and public holidays**

Seconded military staff shall be bound by the rules on annual leave, special leave and public holidays in force at the General Secretariat.

*Article 10***Management and control**

Management and control of days of leave and hours of work shall be the responsibility of the administration of the General Secretariat.

CHAPTER IV

EMOLUMENTS

A. Remuneration

*Article 11***Declaration of salary paid by the employer of the military staff member**

1. The Permanent Representation of the Member State concerned shall notify the General Secretariat of the gross annual salary paid to each seconded military staff member.
2. This information shall appear in the Exchange of Letters referred to in Article 18(2).

B. Allowances

*Article 12***Subsistence allowances**

1. A seconded military staff member shall be entitled, throughout the period of secondment, to a daily subsistence allowance of EUR 104,03. This allowance shall be paid monthly. However, the Exchange of Letters referred to in Article 18(2) may stipulate that this allowance shall not be paid.
2. The allowance shall also be payable for periods of mission, annual leave, special leave and public holidays granted by the General Secretariat.

3. The allowance shall be reduced by 75 % if the place of recruitment is less than 50 km from the place of employment.

4. An advance payment shall be made to a seconded military staff member, when he takes up his duties, corresponding to the allowances to which he is entitled under paragraph 1 for the period from the day he takes up his duties to the last day of the second month following that in which he takes up his duties.

Where such payment is made, there shall be no further entitlement to allowances for the corresponding period.

Where a seconded military staff member definitively ends his employment with the General Secretariat before expiry of the period taken into account for the calculation of the advance payment, that portion of the advance payment made to the military staff member which corresponds to the period not spent in the General Secretariat's employment shall be recoverable.

5. The subsistence allowance for seconded military staff may be adapted to take account of the trend in consumer prices in Brussels.

*Article 13***Additional flat-rate allowance**

Except where the place of recruitment of the seconded military staff member is less than 50 km from his place of employment, 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 original employer plus the subsistence allowance paid by the General Secretariat and the basic salary payable to an official in step 1 of Grade A8 or Grade B5, depending on the Category to which he is assimilated. However, the Exchange of Letters referred to in Article 18(2) may stipulate that this flat-rate allowance shall not be paid.

C. Reimbursement of expenses

*Article 14***Travel expenses**

1. If a seconded military staff member has not removed his personal effects from his place of recruitment to his place of employment, he shall be entitled each month to the cost of a return journey from his place of employment to his place of recruitment. This payment shall be made at the end of each month or on the last day worked if the whole month is not worked. This flat-rate payment shall be based on the cost of the first-class rail fare where the single journey does not exceed 500 kilometres. Where the journey exceeds 500 kilometres or where the usual route includes a sea crossing, payment shall be based on the reduced-price economy-class air fare (the lowest fare offered by the national companies serving the place of recruitment and the place of employment).

2. The rate applied shall be that in force on 1 January of the current year at the General Secretariat's Travel Office. This rate shall be reviewed on 1 July in respect of journeys where the price has increased by more than 5 % since 1 January. Where a whole month is not worked, the amount shall be calculated in proportion to the number of days worked.

3. If a seconded military staff member does remove his personal effects from his place of recruitment to his place of employment, he shall be entitled each year for himself, his spouse and his dependent children to a flat-rate payment equal to the cost of a return journey from his place of employment to his place of recruitment in accordance with the rules and conditions in force at the General Secretariat.

4. In accordance with the rules and conditions in force at the General Secretariat, a seconded military staff member shall be entitled to reimbursement of travel expenses:

(a) for himself:

- from his place of recruitment to his place of employment at the beginning of the period of secondment,
- from his place of employment to his place of recruitment at the end of the period of secondment;

(b) for his spouse and dependent children:

- from the place of recruitment to the place of employment when removal takes place,
- from the place of employment to the place of recruitment at the end of the period of secondment.

5. For the purpose of this Decision, the place of recruitment shall be the place where the seconded military staff member performed his duties with his original employer prior to his secondment. The place of employment shall be the place in which the department to which he is assigned is located. The Exchange of Letters referred to in Article 18(2) shall identify these places.

6. The Exchange of Letters referred to in Article 18(2) may stipulate that travel expenses shall not be covered by the General Secretariat.

Article 15

Removal expenses

1. A seconded military staff member who is obliged to move his residence to his place of employment may remove his personal effects no later than six months after taking up duty provided that the probable period of secondment is at least two years and that the place of recruitment is at least 50 kilometres from the place of employment.

2. A seconded military staff member shall be entitled to reimbursement of the costs of removing his personal effects in accordance with the rules and conditions in force at the General Secretariat.

3. At the end of the period of secondment, removal must take place within three months of the end of the period of secondment.

4. The Exchange of Letters referred to in Article 18(2) may stipulate that removal expenses shall not be covered by the General Secretariat.

Article 16

Official travel and related expenses

1. Military staff on secondment may be sent on official travel, in accordance with Article 3.

2. Official travel expenses shall be reimbursed in accordance with the rules and conditions relating to the reimbursement of such expenses for officials in force at the General Secretariat.

Article 17

Adjustment of emoluments

1. The emoluments provided for in this chapter to which seconded military staff are entitled shall not be revised during the period of secondment.

2. However, the additional flat-rate allowance referred to in Article 13 shall be adjusted once a year, without retroactive effect, to take account of changes in the basic salaries of Community officials.

CHAPTER V

ADMINISTRATIVE AND BUDGETARY PROVISIONS

Article 18

Budgetary allocations and contracts

1. Expenditure arising from the secondment of seconded military staff shall be charged to the Council budget.

2. Secondment shall be implemented by an Exchange of Letters between the Secretary-General/High Representative and the Permanent Representative of the Member State concerned. The Exchange of Letters shall indicate the names of the individuals authorised to lay down the practical arrangements for secondment under this Decision and the payment of the allowances referred to in Articles 12, 13, 14 and 15. Any letter extending, breaking or terminating the period of secondment shall also be sent by the Secretary-General/High Representative. A seconded military staff member shall present himself to the appropriate department of the Directorate-General for Administration and Protocol on the first day of his secondment to complete the relevant administrative formalities. In principle, he shall take up duty on the first of the month.

Article 19

Settlement of expenditure

Payments shall be made by the appropriate department of the Directorate-General for Administration and Protocol, in euro into a bank account opened at a banking institution in Belgium.

*Article 20***Expenditure on infrastructure**

Expenditure on the provision of working facilities (offices, furniture, machines, etc.) for military staff on secondment shall be charged to administrative appropriations of the Council.

Article 21

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

Article 22

This Decision shall be published in the Official Journal.

Done at Luxembourg, 25 June 2001.

For the Council

The President

A. LINDH
