DECISION KDT GB 2021.03

approving the list of decisions adopted by the ECSEL Joint Undertaking that shall continue to apply for the Key Digital Technologies Joint Undertaking

THE GOVERNING BOARD OF THE KEY DIGITAL TECHNOLOGIES JOINT UNDERTAKING,

Having regard to Council Regulation (EU) No 2021/2085 of 19 November 2021 establishing the Joint Undertakings under Horizon Europe (hereinafter "Single Basic Act") and in particular Article 16 and Article 174(12);

Having regard to the KDT-JU Governing Board Rules of Procedure (Decision KDT GB 2021.01);

Having regard to the Staff Regulations of Officials of the European Communities (hereinafter Staff Regulations), and the Conditions of Employment of Other Servants of the European Communities (hereinafter CEOS), laid down by Council Regulation 259/68, and in particular to its Article 110,

Having regard to the Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

WHEREAS

(1) Article 174(8) establishes that the Key Digital Technologies Joint Undertaking shall be the legal and universal successor in respect of all contracts, including employment contracts and grant agreements, liabilities and acquired property of the ECSEL joint undertaking established by Council Regulation (EU) No 561/2014, which it shall replace and succeed,

(2) Article 174(12) of the SBA provides that the KDT-JU shall in its first meeting adopt a list of decisions of the preceding joint undertaking, that shall continue to apply to KDT-JU,
HAS ADOPTED THIS DECISION:

Article 1

The list of ECSEL JU Governing Board decisions listed in Annex I shall continue to apply to KDT-JU. As appropriate, references in those decisions to ECSEL JU shall be deemed replaced for the purpose of their applicability *mutatis mutandis* under KDT-JU.

Article 2

This decision shall enter into force on the day of their adoption by the Governing Board.

Done at Brussels, 10\textsuperscript{th} December 2021

Ralf Bornefeld
Chairperson of the Governing Board

Annex: list of decisions from the ECSEL JU that apply to KDT JU.

<table>
<thead>
<tr>
<th>Annexes</th>
<th>Reference</th>
<th>Subject</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>ECSEL GB 2014 18</td>
<td>Regime applicable to seconded national experts</td>
</tr>
<tr>
<td>2</td>
<td>ECSEL GB 2014 19</td>
<td>Regime applicable to trainees</td>
</tr>
<tr>
<td>3</td>
<td>ECSEL GB 2014 20</td>
<td>Delegating the powers of AIPN</td>
</tr>
<tr>
<td>4</td>
<td></td>
<td>Classification on appointment</td>
</tr>
<tr>
<td>5</td>
<td></td>
<td>Education allowance</td>
</tr>
<tr>
<td>6</td>
<td></td>
<td>Place of origin</td>
</tr>
<tr>
<td>7</td>
<td></td>
<td>Removal expenses</td>
</tr>
<tr>
<td>8</td>
<td></td>
<td>Maternity leave</td>
</tr>
<tr>
<td>9</td>
<td></td>
<td>Appraisal Contract Agents</td>
</tr>
<tr>
<td>10</td>
<td></td>
<td>Engagement of Temporary Agents</td>
</tr>
<tr>
<td>11</td>
<td></td>
<td>Recruitment of disabled persons</td>
</tr>
<tr>
<td>12</td>
<td></td>
<td>Assistance with home care</td>
</tr>
<tr>
<td>13</td>
<td></td>
<td>Parental leave</td>
</tr>
<tr>
<td>14</td>
<td></td>
<td>Family leave</td>
</tr>
<tr>
<td>15</td>
<td></td>
<td>Job sharing</td>
</tr>
<tr>
<td>16</td>
<td></td>
<td>Dependent children</td>
</tr>
<tr>
<td>17</td>
<td></td>
<td>Household allowance</td>
</tr>
<tr>
<td>18</td>
<td></td>
<td>Family allowances</td>
</tr>
<tr>
<td>19</td>
<td></td>
<td>Calculation of pension rights</td>
</tr>
<tr>
<td>20</td>
<td></td>
<td>Transfer of pension rights</td>
</tr>
<tr>
<td>21</td>
<td></td>
<td>Sickness or accident absence</td>
</tr>
<tr>
<td>No.</td>
<td>Code</td>
<td>Description</td>
</tr>
<tr>
<td>-----</td>
<td>---------------</td>
<td>-----------------------------------------------------------------------------</td>
</tr>
<tr>
<td>22</td>
<td>ECSEL GB 2015</td>
<td>Unpaid leave</td>
</tr>
<tr>
<td>23</td>
<td>ECSEL GB 2016</td>
<td>Reclassification Temporary Agents</td>
</tr>
<tr>
<td>24</td>
<td></td>
<td>Reclassification Contract Agents</td>
</tr>
<tr>
<td>25</td>
<td>ECSEL GB 2016</td>
<td>Working Time</td>
</tr>
<tr>
<td>26</td>
<td>ECSEL GB 2016</td>
<td>Part Time Work</td>
</tr>
<tr>
<td>27</td>
<td>ECSEL GB 2017</td>
<td>Guide to missions and authorised travels</td>
</tr>
<tr>
<td>28</td>
<td></td>
<td>Psychological and sexual harassment</td>
</tr>
<tr>
<td>29</td>
<td>ECSEL GB 2018</td>
<td>Temporary occupation of management posts</td>
</tr>
<tr>
<td>30</td>
<td></td>
<td>Appraisal Temporary Agents</td>
</tr>
<tr>
<td>31</td>
<td></td>
<td>Teleworking</td>
</tr>
<tr>
<td>32</td>
<td>ECSEL GB 2019</td>
<td>Executive Director appraisal, probationary and management trial period</td>
</tr>
<tr>
<td>33</td>
<td></td>
<td>Whistleblowing</td>
</tr>
<tr>
<td>34</td>
<td></td>
<td>Middle management staff</td>
</tr>
<tr>
<td>35</td>
<td></td>
<td>Function of adviser</td>
</tr>
<tr>
<td>36</td>
<td></td>
<td>7-year rule</td>
</tr>
<tr>
<td>37</td>
<td></td>
<td>Learning and development</td>
</tr>
<tr>
<td>38</td>
<td></td>
<td>Types of posts</td>
</tr>
<tr>
<td>39</td>
<td></td>
<td>Staff committee</td>
</tr>
<tr>
<td>40</td>
<td></td>
<td>Leave on personal grounds</td>
</tr>
<tr>
<td>41</td>
<td></td>
<td>Outside activities</td>
</tr>
<tr>
<td>42</td>
<td></td>
<td>Contract agents</td>
</tr>
<tr>
<td>43</td>
<td></td>
<td>Leave</td>
</tr>
<tr>
<td>44</td>
<td></td>
<td>Drivers</td>
</tr>
<tr>
<td>45</td>
<td></td>
<td>Administrative inquiries and disciplinary procedures</td>
</tr>
</tbody>
</table>
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

On seconded national experts and national experts in professional training

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to Article 7(1) of Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking\(^1\) may adopt provisions to allow experts to be seconded to it;

Having regard to Article 7(2) of the 561/2014 Council Regulation stating that the Governing Board shall adopt a decision laying down rules on the secondment of national experts to the ECSEL Joint Undertaking;

Having regard to the Commission's Decision\(^2\) of 12 November 2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training;

Whereas:

(1) Seconded national experts (SNEs) should enable the ECSEL Joint Undertaking (hereinafter "ECSEL JU") to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available;

(2) It is highly desirable to foster the exchange of professional experience in, and knowledge of, European policies by temporarily assigning experts from the administrations of the member States to the ECSEL JU, even for short periods. For the same reason, steps should also be taken to facilitate the use of experts drawn from the administrations of Member States of the European Free Trade Area (EFTA), candidate countries that have reached an agreement with the Commission on personnel matters, and public intergovernmental organisations

---

\(^1\) OJ L 169/152 of 7.06.2014

HAS ADOPTED THIS DECISION:

**TITLE I - SECONDED NATIONAL EXPERTS**

**Chapter I - General provisions**

*Article 1*

**Scope and definitions**

1. These Rules shall apply to national experts seconded to the ECSEL Joint Undertaking (ECSEL JU) (hereinafter referred to as SNEs or seconded national experts).

Seconded national experts are staff employed by a national, regional or local public administration or an intergovernmental organisation (IGO), who are seconded to the ECSEL JU so that it can use their expertise in a particular field.

For the purposes of this Decision, the public administration means all State administrative services at central, federal and regional level, comprising
ministries, government and parliament services, the courts, central banks, and the administrative services of local authorities, as well as the decentralised administrative services of the State and of such authorities.

The persons covered by these Rules must have worked for their employer on a permanent or contract basis for at least 12 months before their secondment and shall remain in the service of that employer throughout the period of secondment.

The SNE's employer shall thus undertake to continue to pay his salary, to maintain his administrative status (permanent official or contract staff member) throughout the period of secondment and to inform the Executive Director of the ECSEL JU (hereinafter referred to as "the Executive Director") of any change in the SNE's situation in this regard. The SNE's employer shall also continue to be responsible for all his social rights, particularly social security and pension. The termination of or change in the SNE's administrative status (permanent official or contract staff member) may lead to the termination of his secondment by the ECSEL JU, without notice, in accordance with Article 10(2)(c).

2. An SNE must be a national of an EU or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the Commission on staff secondments.

3. When a secondment is being planned, the ECSEL JU shall ensure the geographical and gender balance and compliance with the principle of equal opportunities, in accordance with the principles set out in Article 1d and Article 27 of the Staff Regulations.

4. Any reference in these Rules to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.

**Article 2**

*Cost-free seconded national experts*

1. For the purposes of this Decision, “cost-free SNEs” means SNEs for whom the ECSEL JU does not pay any of the allowances provided for in Chapters III and VI or cover any of the expenses provided for in this Decision, other than those related to the performance of their duties during their secondment.

2. Cost-free SNEs may be seconded from the public administration, as defined in Article 1(1), of an EU or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the Commission on staff secondments, or from an IGO, as part of an agreement and/or exchange programme with the Commission.
3. In addition, the Executive Director may authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin, the geographical balance and the work to be carried out.

Article 3
Selection procedure

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

2. Applications shall be forwarded by the Permanent Representations and, where provided for in the vacancy notice, by the EFTA Secretariat, the diplomatic missions of the non-member countries whose nationals are eligible for the secondment and the administrations of the IGOs.

3. The secondment shall be authorised by the Executive Director and effected by an exchange of letters between that Director-General and the Permanent Representation of the Member State concerned or, as the case may be, the EFTA Secretariat, the diplomatic missions of the non-member countries whose nationals are eligible for the secondment and the IGOs.

Article 4
Period of secondment

1. The initial period of secondment may not be less than six months or more than two years. It may be renewed once or more, up to a total period not exceeding four years. Exceptionally, where the interests of the service warrant it, ECSEL Executive Director may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period. The total period of engagement shall not exceed the lifetime of the Joint Undertaking.

   In cases where an SNE has been seconded as a national expert in professional training within the meaning of Article 30 during the six years preceding his secondment as an SNE, the period of the traineeship shall be deducted from the maximum period of six years provided for in the previous paragraph.

2. The initial duration of the secondment shall be specified in the exchange of letters referred to in Article 3(3). Any extension of the period of secondment shall be the subject of a new exchange of letters.

Article 5
Place of secondment

SNEs shall be seconded to in Brussels where the seat of ECSEL JU is located.
Article 6
Tasks

1. SNEs shall assist ECSEL JU temporary staff. They may not perform middle or senior management duties, even when deputising for their immediate superior.

2. An SNE shall take part in missions or external meetings only as part of a delegation led by an ECSEL JU temporary staff member or, if on his own, as an observer or for information purposes.

3. In all other cases, by way of derogation from paragraph 2, the Executive Director may give a specific mandate to the SNE to participate on his own in one or more missions or external meetings, after having ensured that there is no potential conflict of interest.

In such cases the Executive Director shall give the SNE clear and specific written instructions on the position to be adopted during the missions or meetings in question.

Under no circumstances may an SNE on his own represent the ECSEL JU with a view to entering into commitments, whether financial or otherwise, or negotiating on its behalf.

An SNE may, however, represent the ECSEL JU in legal proceedings as co-agent with an official.

4. The ECSEL JU shall remain solely responsible for approving the results of any tasks performed by an SNE and for signing any official documents arising from them.

5. The ECSEL JU departments concerned, the SNE’s employer and the SNE must ensure that there is no conflict of interest in relation to the SNE’s duties while seconded to the ECSEL JU.

For this purpose, the department to which the SNE is to be seconded shall inform the SNE and his employer before the start of the secondment about the intended duties and ask them to confirm in writing that they do not know of any reason why the SNE should not be assigned to those duties.

The employer and the SNE shall also undertake to inform the Head of Administration and Finance of any change of circumstances during the secondment which could give rise to any such conflict.

6. Failure on the part of the SNE to comply with his obligations arising from paragraphs 2, 3 or 5 shall entitle the ECSEL JU, if it sees fit, to terminate the secondment of the SNE pursuant to Article 10(2)(c).
Article 7
Rights and obligations

1. During the period of secondment:

a) The SNE shall carry out his duties and conduct himself solely with the interests of the Communities in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside the ECSEL JU. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duties of loyalty to the ECSEL JU.

b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the ECSEL JU shall be subject to the Commission's rules on prior authorisation for officials. The ECSEL JU shall consult the SNE's employer before issuing an authorisation.

c) The SNE shall refrain from any action or behaviour which might reflect adversely upon his position and from any form of psychological or sexual harassment.

d) The SNE shall not, in the performance of his duties, deal with a matter in which, directly or indirectly, he has any personal interests such as to impair his independence, and, in particular, family and financial interests. If he has occasion in the performance of his duties to deal with such a matter, he shall immediately inform the Executive Director, who will take any appropriate measure and may, in particular, relieve the SNE of responsibility in this matter.

The SNE shall declare any gainful activity performed in a professional capacity by his spouse, as defined by the Staff Regulations.

e) The SNE shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.

f) The SNE has the right to freedom of expression, with due regard for the principles of loyalty and impartiality.

3 Article 12b of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

4 Article 12a of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.
The SNE who intends to publish or cause to be published, whether alone or with others, any text on a matter relating to the work of ECSEL JU shall inform the Executive Director in advance. Where the Executive Director is able to demonstrate that the publication is liable seriously to prejudice the legitimate interests of ECSEL JU, he shall inform the SNE of his decision in writing within 30 working days of receipt of the information. If no such decision is notified within the specified period, the Executive Director shall be deemed to have had no objections.

g) All rights in any work done by the SNE in the performance of his duties shall be the property of ECSEL JU.

h) The SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities.

i) Based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in ECSEL JU to whom he is assigned and shall be responsible to his superiors for performance of the tasks entrusted to him.

2. Failure to comply with any of the provisions of paragraph 1 during the period of secondment shall entitle the ECSEL JU, if it sees fit, to terminate the SNE's secondment pursuant to Article 10(2)(c).

3. At the end of the secondment the SNE shall continue to have a duty of loyalty to the ECSEL JU and 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.

**Article 8**

*Professional experience and knowledge of languages*

1. To qualify for secondment to the ECSEL JU a national expert must have at least three years’ experience of administrative, legal, scientific, technical, advisory or supervisory functions which can be regarded as equivalent to those of function groups AD or AST – this latter function group being taken into consideration only for highly specialised job profiles – as defined in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.

2. The SNE must produce evidence of a thorough knowledge of one of the Community languages and a satisfactory knowledge of another Community language to the extent necessary for the performance of his duties. An SNE from a non-member country must produce evidence of a thorough knowledge of one Community language necessary for the performance of his duties.
Article 9
Suspension of secondment

1. At the written request of the SNE or his employer, and with the latter's agreement, the ECSEL JU may authorise suspensions of periods of secondment and specify the terms applicable. During such suspensions:
   a) the subsistence allowances referred to in Article 16 shall not be payable;
   b) the travel expenses referred to in Article 18 shall be payable only if the suspension is at the ECSEL JU’s request.

2. The period of suspension shall not be counted in the period of secondment as defined in Article 4.

Article 10
Termination of periods of secondment

1. Subject to paragraph 2, the expert’s secondment may be terminated at the request of the ECSEL JU or the SNE’s employer, subject to three months’ notice, or at the SNE’s request, subject to the same period of notice and with the agreement of the ECSEL JU and the SNE’s employer.

2. In 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 the ECSEL JU and the employer acting jointly, at the request of the SNE addressed to both parties, if the SNE’s personal or professional interests so require;
   c) by the ECSEL JU in the event of failure by the SNE or his employer to respect their obligations under this Decision; the ECSEL JU shall immediately inform the SNE and his employer accordingly.

Chapter II - Working conditions

Article 11
Social security

1. Before the period of secondment begins, the national public administration or IGO from which the SNE is to be seconded shall certify that he will remain, throughout the period of secondment, subject to the social security legislation applicable to the public administration that employs him and is responsible for expenses incurred abroad. To this end, the SNE’s employer shall provide
the ECSEL JU with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/725.

2. From the day on which their secondment begins, SNEs shall be covered by the ECSEL JU against the risk of accident. The ECSEL JU shall provide them with a copy of the terms of this cover.

Article 12
Working hours

1. The working hours for SNEs shall be the same as those in force at the ECSEL JU6.

2. An SNE shall serve on a full-time basis throughout the period of secondment. The Executive Director may allow an SNE to work part time, provided the SNE's employer agrees and the arrangement is compatible with the smooth running of the ECSEL JU.

Article 13
Sick leave

1. The rules in force at the ECSEL JU on absence due to sickness or accident shall apply to SNEs7.

2. Where the period of sick leave exceeds three months or the length of time worked by the SNE, whichever is longer, the subsistence allowances referred to in Article 16 shall be automatically suspended.

Sick leave may not extend beyond the duration of the secondment of the person concerned.

3. SNEs who are the victim of a work-related injury which occurs during the secondment shall continue to receive the subsistence allowances in full throughout the period during which they are unfit for work. These allowances shall not, however, be paid beyond the end of the period of secondment.

Article 14
Annual and special leave

1. With the exception of the provisions relating to grade, the rules in force at the ECSEL JU on annual and special leave, applicable to the JU staff, shall apply to SNEs8.

---

6 Articles 55, 56 and 56c of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.
7 Articles 59 and 60 of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.
2. Leave shall be subject to prior authorisation by the department to which the SNE is seconded. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, subsistence allowances shall not be paid.

3. Upon a duly justified request from the SNE’s employer, the SNE may be granted up to two days of special leave by the ECSEL JU in a 12-month period to visit his employer.

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

Article 15
Maternity leave

1. The rules in force at the ECSEL JU on maternity leave shall apply to SNEs. While on maternity leave the SNE shall receive the subsistence allowances referred to in Article 16.

2. Where the rules that are binding upon the SNE’s employer provide for a period of maternity leave longer than that granted by the ECSEL JU, the secondment may, at the SNE’s request, be interrupted for the period by which that leave exceeds the leave granted by the ECSEL JU.

A period equivalent to the break may be added to the end of the secondment if the interests of the ECSEL JU warrant it.

3. An SNE may, as an alternative, apply for a break in the secondment to cover the sum of the periods allowed for maternity leave. In that case, the second subparagraph of paragraph 2 shall apply.

Chapter III - Allowances and expenses

Article 16
Subsistence allowances

1. An SNE shall be entitled, throughout the period of secondment, to a daily subsistence allowance and a monthly subsistence allowance.

On the date of entry into force of this Decision, the daily subsistence allowance shall be €128,67.

The monthly subsistence allowance shall be paid in accordance with the following table:

---

8 Articles 57 and 59a of and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

9 Article 58 of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.
<table>
<thead>
<tr>
<th>Distance between place of origin and place of secondment (km)</th>
<th>Amount in €</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 150</td>
<td>0</td>
</tr>
<tr>
<td>&gt; 150</td>
<td>82.70</td>
</tr>
<tr>
<td>&gt; 300</td>
<td>147.03</td>
</tr>
<tr>
<td>&gt; 500</td>
<td>238.95</td>
</tr>
<tr>
<td>&gt; 800</td>
<td>385.98</td>
</tr>
<tr>
<td>&gt; 1300</td>
<td>608.55</td>
</tr>
<tr>
<td>&gt; 2000</td>
<td>726.04</td>
</tr>
</tbody>
</table>

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials\(^{10}\).

3. In the case of cost-free SNEs, the exchange of letters referred to in Article 3(3) shall stipulate that these allowances will not be paid.

4. The adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations shall apply automatically to the subsistence allowances in the month following their adoption.

5. These allowances are intended to cover SNEs' living expenses in the place of secondment on a flat-rate basis and shall in no circumstances be construed as remuneration paid by the ECSEL JU.

Before the secondment, the SNE's employer shall certify to the Head of Administration and Finance that during the secondment it will maintain the level of remuneration the SNE was receiving at the time of his secondment.

The SNE shall inform the Head of Administration and Finance of any allowance similar to the subsistence allowances paid by the ECSEL JU received from other sources. This amount shall be deducted from the subsistence allowances paid by the ECSEL JU. Following a duly justified request from the employer, the ECSEL JU may decide not to make this deduction.

6. Subsistence allowances shall be payable for every day of the week, including during periods of mission, annual leave, special leave and holidays granted by the ECSEL JU.

\(^{10}\) Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.
7. When the SNE starts the secondment, the first 75 days of the subsistence allowances to which he is entitled shall be advanced in the form of a lump sum, and the allowances shall not be paid during the corresponding period. This lump sum shall be paid by the 25th day of the month for SNEs starting on the first day of the same month. For SNEs starting on the 16th day of the month, this lump sum shall be paid by the 10th day of the following month. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.

8. Subsistence allowances shall be paid no later than the 25th day of each month.

**Article 17**

**Place of origin**

1. For the purposes of this Decision, "place of origin" means the place where the SNE performed his duties for his employer at the time of his secondment. The place of secondment shall be the place where the ECSEL JU to which the SNE is seconded is located. Both places shall be identified in the exchange of letters referred to in Article 3(4).

2. If, six months before his secondment to the ECSEL JU as an SNE, a national expert already has his main residence in a place other than that in which the employer’s headquarters is located, the place of origin shall be deemed to be whichever of the places is closer to the place of secondment.

**Article 18**

**Travel expenses**

1. SNEs other than those seconded cost-free, shall be entitled to reimbursement of the cost of their travel between their place of origin and the place of secondment, as defined in Article 17, at the beginning and end of their secondment.

2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the ECSEL JU.

3. By way of derogation from paragraph 1, an SNE who proves that he will be assigned to a place other than his place of origin at the end of the secondment shall be entitled to reimbursement of the travel expenses to that new place under the conditions laid down in paragraph 2. However, this reimbursement may not be more than the amount that would have been paid had the SNE returned to his place of origin.

---

11 Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.
The ECSEL JU shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the employer or any other body. The Permanent Representation concerned or, as the case may be, the EFTA Secretariat, IGOs or diplomatic missions of the non-member countries concerned shall inform the ECSEL JU to this effect.

*Article 19*
*Missions and mission expenses*

1. SNEs may be sent on mission subject to Article 6.

2. Mission expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the ECSEL JU.\(^\text{12}\)

*Article 20*
*Training*

SNEs shall be entitled to attend training courses organised by the ECSEL JU if the interests of the ECSEL JU warrant it. The interests of the SNE, in particular with a view to his reinstatement into his original administration after the secondment, may be considered when a decision is taken on whether to allow him to attend a training course.

*Article 21*
*Administrative provisions*

SNEs shall report to the Head of Finance and Administration on the first day of secondment to complete the requisite administrative formalities.

**TITLE II - NATIONAL EXPERTS IN PROFESSIONAL TRAINING**

*Article 22*
*General provisions and definitions*

1. National experts in professional training (hereinafter referred to as NEPTs) are staff from the public administrations of EU or EFTA Member States or, depending on the places available, of countries with which the Council has decided to open accession negotiations and which have concluded a specific agreement with the Commission on staff secondments, or from IGOs, who are admitted to ECSEL JU for professional training purposes.

2. The provisions of Article 1(1), (2), (3) and (4) shall apply by analogy to NEPTs.

---
\(^{12}\) Articles 11 and 12 of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.
Article 23
Purpose of the professional training

1. The purpose of the professional training is:
   – to give NEPTs experience of the ECSEL JU’s working methods and policies;
   – to enable them to gain practical experience and understanding of the day-to-day work of the ECSEL JU and to give them the opportunity to work in a multicultural, multilingual environment;
   – to enable staff of national administrations to put into practice the knowledge they have acquired in their studies, particularly in their respective areas of responsibility.

2. For its part, the ECSEL JU:
   – benefits from the input of people who can offer a new point of view and up-to-date knowledge which will enrich the daily work of the institution;
   – builds up a network of people with direct experience of its procedures.

Article 24
Eligibility

The provisions of Article 8 on professional experience and knowledge of languages shall apply by analogy to NEPTs.

Article 25
Selection of candidates

1. Applications shall be forwarded by the Permanent Representations or, as the case may be, the EFTA Secretariat, administrations of non-member countries or IGOs to the Executive Director in accordance with the procedure and methods decided by ECSEL JU.

2. After considering the situation, the Executive Director shall decide how many NEPTs are to be admitted to ECSEL JU for each period.

Article 26
Duration of the professional training

The professional traineeships shall last between three and five months. The duration shall be fixed at the outset and may not be changed or extended.

An NEPT may complete only one professional traineeship.
Article 27
Organisation of the professional training

Throughout the professional traineeship NEPTs shall be supervised by a training advisor. The training advisor must inform the Head of Administration and Finance of any significant incidents during the professional traineeship (in particular absences, illness, accidents or interruption) which he knows of or has been informed of by the NEPT.

NEPTs must obey instructions given by their training advisor, their superiors in the ECSEL JU and the Head of Finance and Administration.

NEPTs shall be allowed to attend meetings, unless they are restricted or confidential, to receive documentation and to participate in the activities of the department to which they are seconded.

Article 28
Suspension of the professional traineeship

At the written request of the NEPT or his employer, and with the latter's prior agreement, the Head of Finance and Administration may authorise a very brief suspension of the professional traineeship or its early termination. The NEPT may return to complete the remaining period of the professional traineeship, but only up until the end of that period. Under no circumstances may the traineeship be extended.

Article 29
Working conditions and remuneration

3. The following Articles shall apply by analogy to NEPTs:
   - Article 6 on tasks;
   - Article 7 on rights and obligations;
   - Article 11(1) and (2) on social security;
   - Article 12(1) on working hours;
   - Article 13 on sick leave;
   - Article 14 on annual leave and special leave;
   - Article 19 on missions and mission expenses.

4. NEPTs shall be regarded as cost-free SNEs within the meaning of Article 2. They shall continue to be paid by their employer without any financial compensation being paid by the ECSEL JU.

The ECSEL JU will accept no requests for grants or fees or the reimbursement of travel or other expenses other than the reimbursement of mission expenses incurred as part of the professional traineeship.
Article 30
Reports and certificate of attendance

NEPTs who have completed the stipulated professional training period shall complete the evaluation reports requested by the Head of Administration and Finance at the end of their traineeship. Training advisors must also complete the relevant evaluation report.

Subject to the completion of these reports, NEPTs who have completed their professional traineeships shall receive a certificate showing the dates of the professional training and the department in which it took place.

TITLE III - FINAL PROVISIONS

Article 31 Entry into force

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

Done at Brussels, on 3 July 2014,

For the Governing Board

(signed)
Heinrich Daembkes
Chairperson of the Governing Board
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

Laying down rules on the use of trainees

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking\(^1\), and in particular Article 7 thereof,

Having regard to the Statutes annexed to Council Regulation (EC) No 561/2014, in particular Article 7§3(n) thereof, stating that the Governing Board shall lay down rules on the use of trainees,

Whereas:

(1) Trainees should enable the ECSEL Joint Undertaking (hereinafter "ECSEL JU") to benefit from support, in particular in areas where trainees are willing to participate in the administration of activities for which they can be offered opportunities in the perspective of their coming professional development;
(2) It is highly desirable to foster the exchange of professional experience in, and knowledge of, European policies by temporarily assigning trainees to the ECSEL JU;
(3) In order to ensure that the ECSEL JU's independence is not compromised by private interests, it should be stipulated that trainees shall act in a limited and well identified number of fields;
(4) In order to avoid any conflict of interests, the rights and obligations of trainees, as set out in this Decision, should ensure that they carry out their duties solely in the interests of the ECSEL JU;
(5) In view of their special status, it should be stipulated that trainees acting alone will not exercise any of the responsibilities that belong to the ECSEL JU by virtue of the powers conferred upon it;

\(^1\) OJ L 169/152 of 7.06.2014
HAS ADOPTED THIS DECISION:

Article 1 - General

1. These rules govern the official traineeship scheme of the ECSEL JU. This scheme is addressed mainly to young university graduates, without excluding those who, in the framework of lifelong learning, have recently obtained a university diploma and are at the beginning of a new professional career.

2. The aims of the traineeships with the ECSEL JU are:
   - To provide young university graduates with a unique and firsthand experience of the ECSEL JU. To provide an understanding of the objectives and tasks of the ECSEL JU.
   - To enable such trainees to acquire practical experience and knowledge of the day-to-day work of the ECSEL JU.
   - To provide the opportunity to young university graduates to put into practice knowledge acquired during their studies, and in particular in their specific areas of competence. To introduce these graduates to the professional world and the constraints, duties and opportunities therein.

3. The ECSEL JU through its official traineeships scheme:
   - Benefits from the input of young enthusiastic graduates, who can give a fresh point of view and up-to-date academic knowledge, which will enhance the everyday work of the ECSEL JU;
   - Creates a pool of young people with first-hand experience of and trained in European procedures;
   - Creates long-term “goodwill ambassadors” for European ideas and values both within the European Union and outside.

Article 2 - Eligibility

1. Trainees are selected from nationals of the Member States of the European Economic Area (the Member States of the European Union, Iceland, Liechtenstein and Norway).

Candidates must have completed the first cycle of a higher education course (university education) and obtained a full degree or its equivalent by the closing date for applications. For minimum national qualifications required by the legislation in the country where the diploma was obtained, see Annex I.

2. Knowledge of languages: candidates from Member States must have very good knowledge of at least two European Union languages, of which one should be the working language of the ECSEL JU (English).

Applicants are selected on the basis of qualifications; an appropriate geographical distribution will be maintained.

The Executive Director reserves the right to amend the eligibility criteria as and when necessary. Any such changes will be published on the Website before the opening of the application period.
3. Traineeships are open to candidates who have not:
   - already benefited or benefit from any kind of traineeship (formal or informal, paid or unpaid) within a European institution or body, or
   - had or have any kind of employment within a European institution or body, including anyone who is or has been an assistant to a Member of the European Parliament, an intra-muros consultant or researcher, a temporary staff member, a contract staff member, an auxiliary staff member or an interim staff member of any EU institution, body, delegation or representative office.

4. Candidates should inform the ECSEL JU of any change in their situation that might occur at any stage of the application process.

**Article 3 – Application Process**

3.1. - Submission

Applications should be made in accordance with the procedures established by the ECSEL JU. All necessary instructions are published on the ECSEL JU Website.

If an application is unsuccessful a candidate may re-apply for a subsequent training period. It is, however, necessary to submit a fresh application. The ECSEL JU does not keep applicants’ files from one in-take to another.

The keeping of files by the ECSEL JU respects Regulation (EC) No 45/2001 regarding personal data, whether the applications gave rise to recruitment or were rejected or withdrawn.

The ECSEL JU does not keep applicants’ files from one session to another.

3.2. - Selection procedure

The ECSEL JU makes its selection of trainees on the basis of the applications received. Successful candidates will typically have a background relating to the activities of the ECSEL JU, i.e. Nanoelectronics Technologies, Project Management, Communication including the support functions (for example information technologies, legal affairs, internal audit, personnel administration, budget, accounts, infrastructure services, document management, meeting management).

Candidates can be contacted over the phone by the ECSEL JU to check their availability and to discuss reciprocal expectations prior to the final selection decision.

The Executive Director makes the final selection of applicants after discussion with the Head of Unit where applicable.

Successful applicants are informed by letter, in duplicate, of the dates of the training period. A copy of these rules is enclosed with the letter.

Recruited trainees are responsible for making sure that they obtain the correct visa, where applicable required by the Belgian authorities.

---

2 See Annex II.
3.3- Organisation

Every year the Executive Director determines the number of trainees, to be hosted at the ECSEL JU, on the basis of the ECSEL JU’s needs and of the funds available.

Trainees are placed under the responsibility of an adviser. The adviser must guide and closely follow the trainee during his/her traineeship, acting as his/her tutor. The adviser must notify immediately the Head of Unit or Executive Director of any significant incidents occurring during the traineeship (in particular professional incompetence, absences, sicknesses, accidents, bad behavior, or interruption of the traineeship), which come to his/her attention, or of which the trainee has informed him/her.

Trainees are allowed to attend meetings on subjects of interest to their work (unless these meetings are restricted or confidential), receive documentation and participate in the work of the unit to which they are attached at a level corresponding to their educational and working background. Subject to the approval of their adviser and providing it does not conflict with the accomplishment of the tasks assigned to them, they are entitled to attend meetings in a unit other than the one to which they are attached, unless these meetings are restricted or confidential, with the aim to get an understanding of the objectives and goals of the ECSEL JU.

Article 4 – Rights and duties of trainees

1. Training periods last at least three and at most six months. Traineeship periods may not be repeated or extended beyond the maximum length laid down in these rules.

2. Trainees shall be required to comply with the instructions given by their advisers, by the Head of Unit of the Unit to which they are assigned and/or the Executive Director.

3. Trainees must take part in all activities organised for them, respecting the timetables and programs laid down.

4. During their traineeship, trainees must consult their advisers on any action they propose to take on their own initiative relating to the ECSEL JU activities.

5. Trainees must exercise the greatest discretion regarding facts and information that come to their knowledge during the course of their training. They must not, in any manner whatsoever, disclose to any unauthorised person any document or information not already made public. They will continue to be bound by this obligation after the end of their training. The ECSEL JU reserves its legal right to terminate the traineeship and to pursue any person who does not respect this obligation.

Trainees must not have any professional connections with third parties, who might be incompatible with their traineeship (i.e. must not work for lobbyists, legal attaches, etc.), and they are not permitted to exercise any other gainful employment during the period of the traineeship, which may adversely affect the work assigned during the traineeship. If a conflict of interest should arise during their assignment, trainees should immediately report this to their adviser and to the Executive Director/ Head of Unit in writing.

6. Trainees must respect the same rules for contacts with the Press as other ECSEL JU staff and follow the instructions provided.
7. Trainees must not, either alone or with others, publish or cause to be published any matter dealing with the work of the ECSEL JU without the written permission in accordance with the ECSEL JU rules. All rights, for any articles or other work done for the ECSEL JU, are the property of the ECSEL JU.

8. At the end of their traineeship, trainees must submit to their advisers a report on their activities during the training period. The advisers will then forward this report to the Personal Assistant of the Executive Director (PA) together with their own reports on the trainees. In the light of these reports, the trainees receive, at the end of the traineeship, a certificate specifying the length of training period and the unit to which they were attached.

9. Trainees must carefully record their activities and their daily working hours in from the first day up to the final day of service.

10. Trainees must also comply with the present rules governing the traineeships at ECSEL JU and the internal rules and procedures of the ECSEL JU. The ECSEL JU reserves the right to terminate the traineeship in case of noncompliance with these obligations.

Article 5 - Absences

1. Trainees should keep the same hours of work and have the same ECSEL JU holidays, if they fall during their traineeship, as ECSEL JU staff. Trainees are entitled to 2 days leave per month. This entitlement is acquired pro rata to the months worked. Days of leave not taken are not paid in lieu. Days taken for participation to any competition, exam or university work, etc. are to be deducted from this entitlement. The Executive Director/Head of Unit concerned and the PA oversee that the above rules are respected. Leave requests should respect the needs of the service. Absences must first be approved by the Head of Unit concerned.

2. In case of sickness, trainees must notify the adviser and PA immediately, and if absent for longer than three days, must produce a medical certificate, indicating the probable length of absence, which must be forwarded to the PA. A trainee who is absent because of illness may be subject to medical checks in the interest of the service.

3. When trainees are absent without justification or without notifying their adviser, the ECSEL JU may decide to immediately terminate the traineeship without further notice. Any overpayment of the grant is to be reimbursed to the ECSEL JU. The trainee will also not be entitled to receive the travel allowance.

Article 6 - Grants

1. Trainees will be awarded a monthly grant. The amount of the grant is decided by the ECSEL JU on a yearly basis and is dependent on budgetary constraints. The amount of the basic grant will be published on the Website.

2. If the trainee terminates his/her contract early, he/she will be required to reimburse that part of the grant, which he/she may have received, relating to the period after the termination date.
3. Upon presentation of the proper justification, disabled trainees may receive a supplement to their grant equal to a maximum of 50% of the amount of the grant.

Article 7 - Travel expenses at the beginning and end of the traineeship

1. Trainees who receive a grant, whose place of recruitment at the beginning of the traineeship is not Brussels are entitled to a compensation for the travel expenses incurred at the beginning and end of the traineeship as determined here below.

2. The trainee must complete a minimum of three months of the training period to qualify for the travel allowance. Trainees whose place of recruitment is less than 50 km from the place of employment are not entitled to a travel allowance.

3. The postal address used in the ECSEL JU’s letter awarding the traineeship shall be considered to be the place of recruitment. No request for a change of address shall be granted once the decision to award a traineeship has been taken.

4. Travel expenses for the inward journey and for the outward journey are compensated as explained in annex III.

Article 8 - Individual missions

1. In exceptional cases only, the Executive Director may, on a request from the Head of Unit concerned stating the grounds, grant authorization for a trainee to be sent on mission.

2. This authorization entitles trainees to reimbursement of mission expenses in accordance with the ECSEL JU rules.

Article 9 - Tax arrangements

Grants awarded to trainees are not subject to the special tax regulations applying to officials and other servants of the European Union. Trainees are solely responsible for the payment of any taxes due on the grant they receive from the ECSEL JU by virtue of the laws in force in the State concerned.

Article 10 - Sickness and accident insurance

The ECSEL JU does not cover sickness nor accident insurance and trainees must take out such insurance prior to the start of their traineeship at the ECSEL JU.

Article 11 - Interruption and termination of training and sanctions

1. Under exceptional circumstances, at the written request of the trainee stating the relevant reasons and with proper justification, the Head of Unit concerned or Executive Director may, in consultation with the PA, authorise an interruption of training for a given period. The grant is then suspended and the trainee is not entitled to reimbursement of any travel expenses incurred during that period.

---

3 See Annex III.
2. The trainee may return to complete the unfinished part of the training, but only up to the end of the same training period. No extension is possible.

3. If a trainee wishes to terminate his/her traineeship earlier than the date specified in the contract, a written request must be submitted by the trainee to the Head of Unit/Executive Director with copy to the PA for approval. This request, stating the relevant reasons, must be submitted at least three weeks in advance of the new termination date foreseen, via his/her adviser.

4. Traineeship shall end when the period for which it was awarded expires.

5. Trainees must exercise their duties and behave with integrity, courtesy and consideration. If the conduct of the trainee does not prove satisfactory, the ECSEL JU may at any moment decide to terminate the traineeship.

6. The ECSEL JU following a justified request by the adviser and approved by the Head of Unit concerned, reserves the right to terminate the traineeship if the level of the trainee’s professional performance or knowledge of the working language is insufficient for the proper execution of his/her duties.

7. The ECSEL JU reserves the right to terminate the traineeship if at any moment it becomes apparent that the trainee knowingly made wrongful declarations, or provided false statements or papers at the moment of application or during the traineeship period.

Article 12 - Final provisions

These rules will enter into force on the day of their adoption.

Done at Brussels, on 3 July 2014,

For the Governing Board

(signed)

Heinrich Daembkes
Chairperson of the Governing Board
Annex I

Examples of diplomas for which the level of education corresponds to that required for access to the traineeship

<table>
<thead>
<tr>
<th>Country</th>
<th>Basic diplomas required for the traineeship</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bălgarija</td>
<td>Diplom za Visse Obrazowanie (Диплом за Висше Образование)</td>
</tr>
<tr>
<td></td>
<td>Bakalavur (Бакалавър)</td>
</tr>
<tr>
<td></td>
<td>Magister (Магистър)</td>
</tr>
<tr>
<td>Belgique / België / Belgien</td>
<td>Licence - Licentiaat</td>
</tr>
<tr>
<td>Ceská Republika</td>
<td>Diplom o ukončení Bakalářského studia</td>
</tr>
<tr>
<td>Danmark</td>
<td>Bachelorgrad</td>
</tr>
<tr>
<td>Deutschland</td>
<td>Fachhochschulabschluss (6-7 Semester)</td>
</tr>
<tr>
<td>Eesti</td>
<td>Bakalaureusekraad (&gt;= 120 ainepunit)</td>
</tr>
<tr>
<td>Eire / Ireland</td>
<td>Bachelor’s degree</td>
</tr>
<tr>
<td>Elláda</td>
<td>Πτυχίο Α.Ε.Ι. (πανεπιστηµίου, πολυτεχνείου, Τ.Ε.Ι. υποχρεωτικής τετραετούς Φοίτησης)</td>
</tr>
<tr>
<td>España</td>
<td>Diplomado / Ingeniero técnico</td>
</tr>
<tr>
<td>France</td>
<td>Licence</td>
</tr>
<tr>
<td>Italia</td>
<td>Laurea -L (breve)</td>
</tr>
<tr>
<td>Kύπρος / Kıbrıs</td>
<td>Πανεπιστηµιακό Πτυχίο</td>
</tr>
<tr>
<td>Latvija</td>
<td>Bakalaura diploms (&gt;= 120 kreditů)</td>
</tr>
<tr>
<td>Lietuva</td>
<td>Bakalauras (&gt;= 120 kreditų)</td>
</tr>
<tr>
<td>Luxembour cg</td>
<td>Bachelor / Diplôme d’Ingénieur Industriel</td>
</tr>
<tr>
<td>Magyarország</td>
<td>Főiskola Oklevél</td>
</tr>
<tr>
<td>Malta</td>
<td>Bachelor’s degree</td>
</tr>
<tr>
<td>Nederland</td>
<td>Bachelor</td>
</tr>
<tr>
<td>Österreich</td>
<td>Fachhochschuldiplom (6-7 Semester) / Bakkalaureus(rea)</td>
</tr>
<tr>
<td>Polska</td>
<td>Licencjat / Inżynier</td>
</tr>
<tr>
<td>Portugal</td>
<td>Bacharelato</td>
</tr>
<tr>
<td>România</td>
<td>Diplomă de Licenţa</td>
</tr>
<tr>
<td>Slovenija</td>
<td>Univerzitetna diploma</td>
</tr>
<tr>
<td>Slovenská Republika</td>
<td>Diplom o ukončení Bakalárskeho štúdia</td>
</tr>
<tr>
<td>Suomi/Finland</td>
<td>Kandidaatin tutkinto - Kandidatexamen / Ammattikorkeakoulututkinto / Yrkeshögskoleexamen (min 120 opintoviikkoa - Studieveckor)</td>
</tr>
<tr>
<td>Sverige</td>
<td>Kandidatexamen (Akademisk examen omfattande minst 120 poäng harav 60 poäng fördjupade studier i ett ämne + uppsats motsvarande 10 poäng).</td>
</tr>
<tr>
<td>United Kingdom</td>
<td>Bachelor’s degree</td>
</tr>
<tr>
<td>Other countries</td>
<td>University level diploma requiring at least 3 years study</td>
</tr>
</tbody>
</table>

4 Last updated May 2006, still valid January 2012
Annex II

European Institutions and Bodies

EU institutions:
- European Parliament
- Council of the European Union
- European Commission (including Delegations and Representation offices and executive agencies)
- Decentralised (regulatory) agencies and Joint Undertakings
- Court of Justice of the European Communities
- European Court of Auditors

Financial bodies:
- European Central Bank
- European Investment Bank
- European Investment Fund

Advisory bodies:
- European Economic and Social Committee
- Committee of the Regions

Inter-institutional bodies:
- Office for Official Publications of the European Communities
- European Communities Personnel Selection Office
- European Administrative School

Other specialized bodies:
- European Ombudsman
- European Data Protection Supervisor
## Annex III

### Travel allowance

#### Entitlement

- Permanent address (i.e. as indicated in the application) must be more than 50km from the place of appointment.
- Journey should be as direct as possible.
- Travelling must be within 1 month before and 1 month after the traineeship period.

### Travel documents to be provided

- **Train**: original ticket + proof of payment if price is not on the ticket.
- **Bus**: original ticket + proof of payment if price is not on the ticket.
- **Plane**: original ticket (or e-ticket) + proof of payment + original boarding pass.
- **Car travel**: originals of petrol tickets of the trip + copy of car insurance.

#### You can submit:

- **a) one way ticket**
  - price will be multiplied by 2 and then full reimbursement up to the ceiling.
- **b) two way ticket**
  - full reimbursement up to the ceiling.
- **c) car travel**
  - amount paid = distance X rate.

**Not accepted for reimbursement:**

- 1st or business class travel;
- Excess baggage charges;
- Taxi fares;
- Taxes other than airport taxes;
- Cancellation / travel insurance.

### Calculation of the maximum amount of reimbursement (ceiling)

>500 Distance between the permanent address and the place of appointment (Brussels) = 'distance'.

For non EU trainees the distance is calculated between the EU town nearest to the permanent address and place of appointment (see http://ec.europa.eu/stages/information/travellist_en.htm). The ceiling is then established as follows: 'distance' x rate.

#### Rates:
<table>
<thead>
<tr>
<th>Distance Range</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 – 49 km</td>
<td>0</td>
</tr>
<tr>
<td>50 km – 499 km</td>
<td>0.40 €/km</td>
</tr>
<tr>
<td>500 km – 999 km</td>
<td>0.35 €/km</td>
</tr>
<tr>
<td>1000 km – 1999 km</td>
<td>0.30 €/km</td>
</tr>
<tr>
<td>2000 km – 2999 km</td>
<td>0.25 €/km</td>
</tr>
<tr>
<td>over 3000 km</td>
<td>0.28 €/km</td>
</tr>
</tbody>
</table>
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

Delegating the powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority empowered to conclude contracts of employment to the Executive Director of the ECSEL Joint Undertaking

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Staff Regulations of Officials (Staff Regulations) and the Conditions of Employment of Other Servants of the European Union (CEOS), and in particular to Articles 2 (1), 110 (2) of the Staff Regulations and Article 6 of the CEOS,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking, and in particular Article 6 thereof,

Having regard to the Rules of Procedure of the ECSEL Governing Board, and in particular Article 7 thereof,

Having regard to decision ECSEL GB 2014.04, adopted on 3 July 2014, delegating the powers of Appointing Authority and Authority Empowered to Conclude Contract of Employment to the Executive Director of the ECSEL Joint Undertaking,

The Staff Committee of the ECSEL JU, which is to be consulted pursuant to Article 110 (2) of the Staff Regulations, has not yet been constituted and it is therefore impossible at the present to comply with the requirements of that provision. The Staff Committee will be invited to give its opinion on the relevant implementing rules when it has been constituted and due consideration will be given to any such opinion. The Governing Board is entitled in such circumstances to approve the rules forthwith,

In agreement with the European Commission pursuant to Article 110 (2) of the Staff Regulations,
WHEREAS:

(1) By virtue of Article 6.2 Council Regulation (EU) No 561/2014, the powers of the Appointing Authority and the Authority empowered to conclude contracts of employment are conferred on the Governing Board of the ECSEL Joint Undertaking.

(2) Article 6.2 of Council Regulation (EU) No 561/2014 provides that the Governing Board shall adopt, in accordance with Article 110(2) of the Staff Regulations, a decision delegating the relevant powers of the Appointing Authority and the Authority empowered to conclude contracts of employment to the Executive Director,

(3) Pursuant to Article 110 (2), 6th subparagraph, of the Staff Regulations, the Governing Board shall adopt the implementing rules to the Staff Regulations,

(4) Decisions on the daily management of the Joint Undertaking, and in particular decisions in individual staff matters need to be taken at the most appropriate level,

(5) The Executive Director manages the Joint Undertaking and is in particular responsible for the day-to-day administration of the Joint Undertaking,

(6) It is therefore necessary to adopt a decision delegating the relevant competences in the area of staff management to the Executive Director,

HAS DECIDED AS FOLLOWS:

Article 1

The present decision concerns the exercise of the Appointing Authority and the Authority empowered to conclude contracts of employment powers in respect of the Joint Undertaking staff except the Executive Director.

It shall repeal and replace decision ECSEL GB 2014.04.

Article 2

1. In respect of the Joint Undertaking staff, the powers conferred by the Staff Regulations on the Appointing authority and by the CEOS on the Authority empowered to conclude contracts of employment are delegated to the Executive Director of the Joint Undertaking, except the adoption of implementing rules to give effect to the Staff Regulations or to the CEOS.

2. These powers are conferred on the Executive Director without prejudice to those of the Governing Board as provided in Council Regulation (EU) No 561/2014.

3. Decisions on selection, extension of contract, termination of contract and reclassification of the accounting officer shall be subject to approval by the Governing Board.
4. The powers referred to in paragraph 1 concerning Article 90(2) of the Staff Regulations are exercised by the Governing Board when the contested decision was taken at the level of the Executive Director of the Joint Undertaking.

**Article 3**

1. The Executive Director may sub-delegate the powers referred to in Article 1.

2. Agents to whom powers are sub-delegated under paragraph 1 shall be designated by appropriate criteria, such as their function group and assignment to an organisational entity, by the job they hold or *ad personam*.

3. Sub-delegations shall be brought to the attention of the staff in a suitable form.

4. If a person on whom powers have been conferred under Article 2 or under paragraph 1 of this Article is unable to act, those powers shall be exercised in accordance with the rules on deputising set out in the Joint Undertaking’s internal rules.

**Article 4**

In exceptional cases, the Governing Board may temporarily suspend the delegation of powers as referred to in Articles 2 and 3 and exercise these powers itself or delegate them to one of the Governing Board members or to a staff member of the Joint Undertaking other than the Executive Director. These powers may then be sub-delegated as necessary.

**Article 5**

This decision shall take effect on the day following that of its adoption.

Done at Brussels on, 5 November 2014

For the Governing Board

(signed)

Heinrich Daembkes
Chairperson of the Governing Board
Brussels, 16.12.2013
C(2013) 8970 final

COMMISSION DECISION

of 16.12.2013

laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement
COMMISSION DECISION

of 16.12.2013

laying down general implementing provisions concerning the criteria applicable to
classification in step on appointment or engagement

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 32 of the Staff Regulations,

After consulting the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas

(1) The Commission's recruitment policy constitutes an essential part of its staff policy.

(2) Pursuant to the second paragraph of Article 32 of the Staff Regulations, the appointing authority may allow candidates additional seniority of step in order to take account of their specific professional experience.

(3) The general implementing provisions on classification in grade and step need to be adapted to the career structure provided for in the Staff Regulations in its version amended as of 1 January 2014. For the sake of clarity and legal certainty, Commission Decision of 7 April 2004 on general implementing provisions of 7 April 2004 should be replaced by this Decision,

HAS DECIDED AS follows:

Article 1
Scope

The general implementing provisions laid down by this Decision shall apply when an official is appointed to the Commission or a temporary agent is engaged.

Article 2
Taking account of professional experience

1. Any duly certified professional activity connected with one of the institution's areas of activity shall be taken into account.

2. Where additional periods of training and study are accompanied by periods of professional activity, only the latter shall be considered as professional experience.

3. Compulsory military service or equivalent civilian service shall be taken into consideration.

¹ OJ L 56, 4.3.1968, p. 1.
4. For grading purposes, professional activities pursued part-time shall be calculated pro rata, on the basis of the certified percentage of full-time hours worked.

In the case of freelance translators, the length of professional experience shall be calculated, within the limits of the period spent on such activities, on the basis of the number of pages translated.

In the case of freelance interpreters, the length of professional experience shall be based on both the number of days worked as an interpreter and the time spent on the necessary preparation.

5. A given period may be counted only once.

6. According to the rules on access to function groups (Article 5(3) of the Staff Regulations), professional experience shall be counted as follows:

**AST and AST/SC:** from the time when a post-secondary education diploma was awarded: where the official minimum duration of the course is less than three years, the difference shall be deducted from the professional experience;

where no such diploma has been awarded and a secondary-education certificate and three years' professional experience have been accepted as an alternative, those three years shall be deducted from the experience acquired;

where professional training of an equivalent level is accepted as an alternative, from the time when the diploma or certificate relating to this training was awarded;

where equivalent professional experience is accepted as an alternative, the duration of the professional experience within the meaning of Article 2 shall be reduced by the number of years of equivalent experience specified in the notice of competition or selection procedure; where no such number is specified, three years shall be deducted from the professional experience.

**AD 5 and AD 6:** from the time when, on completion of a required minimum of three years of study, the university degree giving access to these grades was awarded;

where no such degree has been awarded and "professional training of an equivalent level" has been accepted as an alternative in the competition or selection procedure, from the date when the diploma or certificate relating to this training was awarded.

**AD 7 to AD 16:** from the time when a university degree was awarded on completion of a required minimum of four years of study;
where a university degree has been awarded on completion of less than four years of study, the difference between the official minimum duration of the course and four years shall be deducted from the professional experience;

where no such degree has been awarded and "professional training of an equivalent level" has been accepted as an alternative in the competition or selection procedure, from the date when the diploma or certificate relating to this training was awarded.

Article 3
Documentation
Candidates shall be responsible for providing documents evidencing

- the official minimum duration of their studies/training,
- the level of a degree or diploma/the equivalent level of a training period,
- the length of professional experience,
- their professional activity during periods of training and further study.

Article 4
Additional seniority of step
In acknowledgement of professional experience, the appointing authority or the authority empowered to conclude contracts of employment shall allow 24 months' additional seniority of step for professional experience equal to or more than the number of years indicated below:

- For grades AD 14 to AD 16: 21 years
- For grades AD 12 and AD 13: 18 years
- For grades AD 9 to AD 11: 15 years
- For grade AD 8: 12 years
- For grade AD 7: 9 years
- For grade AD 6: 6 years
- For grade AD 5: 3 years
- For grade AST 4: 12 years
- For grade AST 3: 9 years
- For grade AST 2 and AST/SC 2: 6 years
- For grade AST 1 and AST/SC 1: 3 years

By way of exception, where a temporary agent is hired at level AST 5, 6, 7 or 8, an additional seniority of 24 months shall be granted in respect of professional experience of 15 years or more. Likewise, where a temporary agent is engaged at level AST/SC 3 or 4, an additional seniority of 24 months shall be granted in respect of professional experience of 9 and 12 years respectively or more.
The length of the professional experience to be counted shall be established at the time when the job offer is made. Where the period between this date and that on which the appointment or engagement is actually taken up has an impact on the classification in step, a new decision shall be adopted in this regard.

Article 5
Temporary staff members appointed as officials

1. Members of temporary staff who are appointed as officials to posts in the same grade immediately after a period of temporary employment in the institutions shall maintain their step and seniority in the step. This provision shall apply mutatis mutandis in cases of engagement as temporary agent immediately after a previous period of temporary employment.

2. A member of temporary staff who is appointed as official in a lower grade immediately after a period of temporary employment in the institutions shall be classified according to one of the following options, whichever is most favourable:
   – as a new recruit,
   – in the step and with the seniority in the step acquired as a member of the temporary staff, or
   – with the seniority in the step acquired as a member of the temporary staff, but in the step which he would have occupied had he been hired, at the beginning of his period of temporary employment, in the grade to which he is appointed as official.

3. A member of temporary staff who is appointed as official in a higher grade immediately after a period of temporary employment in the institutions shall be classified according to one of the following options, whichever is more favourable:
   – in accordance with Article 46 of the Staff Regulations; or
   – as a new recruit.

Article 6
Officials passing a competition

An official who is appointed at a higher grade as a result of a competition shall be classified according to one of the following options, whichever is more favourable:
   – on the basis of Article 46 of the Staff Regulations;
   – as a new recruit.

The same shall apply to a member of temporary staff who, immediately after a period of temporary employment, is hired in a higher grade as temporary agent following a selection procedure.

Article 7
Final provisions

The Commission Decision of 7 April 2004 on general implementing provisions concerning the criteria applicable to classification in grade and step on appointment or engagement (C(2004) 1313 final/1) is repealed. However, that Decision shall continue to apply in the event of appointment or engagement prior to 1 January 2014.
This Decision shall take effect on 1 January 2014.

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President
COMMISSION DECISION

of 16.12.2013

on general implementing provisions on granting the education allowance (Article 3 of Annex VII to the Staff Regulations)
COMMISSION DECISION

of 16.12.2013

on general implementing provisions on granting the education allowance (Article 3 of Annex VII to the Staff Regulations)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68¹, and in particular Article 67(1)(c) of the Staff Regulations and Article 3 of Annex VII thereto,

Having consulted the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas:

(1) Commission Decision of 7 April 2004 laying down general implementing provisions for granting the education allowance (C(2004) 1313 final/210) should be adapted following the amendment to Article 3 of Annex VII to the Staff Regulations entering into force on 1 January 2014. For the sake of clarity and legal certainty that Decision should be replaced by this Decision.

(2) Officials assigned to a third country shall qualify for special provisions as regards the education allowance under Annex X to the Staff Regulations.

HAS DECIDED AS FOLLOWS:

Article 1

1. An official shall receive a flat-rate education allowance, hereinafter called education allowance A, for each dependent child, within the meaning of Article 2(2) of Annex VII to the Staff Regulations, who is less than five years old or is not yet in regular full-time attendance at a primary school.

2. Upon application an official shall receive an education allowance, hereinafter called education allowance B, for each dependent child, within the meaning of Article 2(2) of Annex VII to the Staff Regulations, who is at least five years old and in regular full-time attendance at a primary or secondary school that charges fees (registration and attendance fees) or at an establishment of higher education. However, the requirement of attendance at a school that charges fees shall not apply to the reimbursement of the cost of transport to and from school.

Temporary attendance at educational or training courses shall not be considered to be regular full-time attendance at an educational establishment within the meaning of this Decision.

¹ OJ L 56, 4.3.1968, p. 1.
Article 2

1. Entitlement to education allowance A shall commence on the first day of the month in which the child is considered for the purposes of the Staff Regulations to be dependent on the official and shall cease at the end of the month preceding the month in which the child satisfies the following two conditions:
   – is at least five years old and
   – is in regular full-time attendance at a primary school.

Entitlement to education allowance A shall cease in any case not later than the end of the month in which the child reaches the age of eight.

2. Entitlement to education allowance B shall commence on the first day of the month in which the child satisfies the conditions referred to in Article 1(2) and shall cease at the end of the month in which the conditions giving such entitlement are no longer met and not later than the end of the month in which the child finishes its education or at the end of the month in which the child reaches the age of 26, whatever is the earliest.

3. An official who is not entitled to remuneration in respect of a whole month shall receive, for the relevant part of the month, an education allowance A or B divided into thirtieths in accordance with the method of calculation laid down in Article 16(2) of Annex VII to the Staff Regulations of officials.

4. Where the factual circumstances by virtue of which education allowance B is granted change, the amount of that allowance shall be fixed anew with effect from the first day of the month in which that change occurs.

Article 3

Subject to the maximum amounts prescribed in the first and third subparagraphs of Article 3(1) of Annex VII to the Staff Regulations, without prejudice to the special provisions applicable to staff covered by Annex X to the Staff Regulations, education allowance B shall cover:

(a) registration and attendance fees at educational establishments
(b) transport costs

excluding all other costs, and in particular:

– compulsory expenditure such as for the purchase of books, school equipment, sports equipment, school insurance and medical expenses cover, examination fees, costs of joint extra-curricular activities (school excursions, visits and trips, sports courses, etc.), and other expenses connected with following the curriculum of the educational establishment attended;

– costs incurred as a result of the child's participation in organised trips to winter, seaside and countryside resorts and similar activities.

Article 4 (Primary and secondary schools)

1. The costs specified in Article 3 shall be reimbursed on presentation of supporting documents.

These costs shall be reimbursed by the payment of monthly sums each corresponding to one-twelfth of the total of the costs incurred.
(b) Where the dependent child does not use public transport or a special school service, reimbursement shall be on the basis of the cost of:

– a season ticket for the public means of transport, or
– the special transport serving the school

taking into account that which is the less expensive of the two and which follows the shortest route between home and school.

2. Where a special school transport service is organised for a European School by its parents' association, the cost per pupil of transport to be reimbursed pursuant to Article 3(b) shall be deemed to be the sum of the actual cost charged to the association by transport undertakings, the cost of any staff employed by the association and the association's administrative expenses, in connection with the provision of the transport service, and an allowance, where the association considers this necessary, of up to 2% for contingencies, divided by the number of persons using the service.

3. The costs specified in Article 3 shall be reimbursed by payment of a flat-rate monthly allowance corresponding to the amount referred to in the first subparagraph of Article 3(1) of Annex VII to the Staff Regulations, for each child attending a primary or secondary school or equivalent educational establishment at a place away from the family home and paying for accommodation at that place.

4. On presentation of supporting documents, the official shall be entitled to receive up to twice the amount set out in the first subparagraph of Article 3(1) of Annex VII of the Staff Regulations by way of reimbursement of the costs specified in Article 3, provided his/her place of employment is at least 50 km either from a European School or from a school teaching in his/her mother tongue and the child must attend such a school for imperative educational reasons, adequate proof of which must be provided.

Article 5 (Establishment of higher education)

1. The costs specified in Article 3 shall be reimbursed by payment of a flat-rate monthly allowance equal to that specified in the first subparagraph of Article 3(1) of Annex VII of the Staff Regulations for each child attending an establishment of higher education.

2. An official whose place of employment is at least 50 km from an establishment of higher education in the country of which he/she is a national and working in his/her language shall be entitled to reimbursement of the costs specified in Article 3 by payment of up to twice the amount specified in the first subparagraph of Article 3(1) of Annex VII to the Staff Regulations for every child actually attending an establishment of higher education at least 50 km from the place of employment, provided the official is entitled to expatriation allowance; the latter condition shall not apply if there is no such establishment in the country of which the official is a national or if the child attends a higher education establishment in a country other than that of the official's place of employment.

Article 6

The flat-rate allowance provided for in Articles 4 and 5 above shall also be granted during the school holidays. Where a child does not continue his/her studies after the end of a given academic year, the flat-rate allowance shall be paid up to the end of the month in which the child completes his/her studies.
**Article 7**
The official shall declare any similar allowances received from another source and shall notify any change of circumstance which could give rise to the cessation or reduction of education allowance A or B.

**Article 8**
This decision shall apply mutatis mutandis to temporary and contract staff.

**Article 9**

This Decision shall take effect on 1 January 2014.
Done at Brussels, 16.12.2013

*For the Commission*

Maroš ŠEFČOVIČ
Vice-President
COMMISSION DECISION

of 16.12.2013

laying down general implementing provisions to Article 7(4) of Annex VII to the Staff Regulations on determining the place of origin
COMMISSION DECISION  

of 16.12.2013  

laying down general implementing provisions to Article 7(4) of Annex VII to the Staff Regulations on determining the place of origin  

THE EUROPEAN COMMISSION,  

Having regard to the Treaty on the Functioning of the European Union,  

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681,  

After consulting the Staff Regulations Committee,  

After consulting the Staff Committee,  

Whereas:  

(1) Article 7(4) and other provisions of Annex VII to the Staff Regulations, concerning the place of origin, have been amended with effect as of 1 January 2014. The Commission Decision of 15 April 2004 laying down general implementing provisions for giving effect to Article 7(3) of Annex VII to the Staff Regulations on determining the place of origin (C(2004) 1364/3) should be adapted accordingly.  

(2) For reasons of clarity and legal certainty, Decision C(2004) 1364/3, should be replaced by this Decision,  

HAS DECIDED AS FOLLOWS:  

Article 1  

1. An official's place of origin as referred to in Article 7(4) of Annex VII to the Staff Regulations shall be determined or changed by the appointing authority according to the criteria laid down in this Decision. The location of a place of origin shall coincide with its geographical position on the basis of its longitude and latitude as determined in an appropriate database determined by the appointing authority.  

2. Save as otherwise provided for in these general implementing provisions, the place of origin is determined for the purposes of applying Article 7(1)(b), Article 8 and Article 9(2) of Annex VII and Article 20(3) of Annex XIII to the Staff Regulations.  

3. However, if an official's place of origin is situated outside the territories of the Member States of the Union as well as outside the countries and territories listed in Annex II to the Treaty on the Functioning of the European Union and the territories of the Member States of the European Free Trade Association, it shall, for the purpose of applying Article 8, paragraphs 1 – 3, of Annex VII to the Staff Regulations, be replaced by the capital city of the Member State whose nationality the official holds. If the official holds the nationalities of more than one Member State, Article 8, paragraphs 1 – 3, of Annex VII to the Staff Regulations shall be replaced by the capital city of the Member State whose nationality holds the highest precedence.  

applied with reference to the capital city of the Member State of the official's first nationality as registered in the Commission's staff database.

**Article 2**

1. When an official takes up his duties, his place of origin shall be assumed to be the place from where he is recruited.

Upon express reasoned request, submitted by the official in writing within one year of taking up his duties, and on production of appropriate documentary evidence, his centre of interests shall be determined as his place of origin, if the centre of interests is not the same as the place of recruitment.

2. For the purposes of applying this Decision:

   - "place of recruitment" shall mean the place where an official was habitually resident at the time of recruitment. Places of temporary residence, e.g. for the purpose of study, military service, training periods or holidays, shall not be regarded as places of habitual residence;
   
   - "centre of interests" shall mean the place where an official retains:

     (a) his or her main family ties which, barring duly substantiated exceptions, shall at the choice of the official mean:

         (1) mother and father or either parent; failing that grandparents, or one grandparent; failing that parents-in-law, or either parent-in-law; failing that brothers and sisters;

         or

         (2) the marital residence, on the dual condition that:

         - it was their permanent joint residence prior to the entry into the service of the European Union of the first spouse to enter an institution as an official or as a member of the temporary, auxiliary or contract staff, and

         - it consists of immovable property in which they have, or one of them has, heritable interests;

     (b) heritable interests constituted by immovable property in the form of buildings;

     (c) essential civic interests, both active and passive.

     If all three criteria referred to in a), b) and c) do not coincide in the same place, the official's centre of interests shall be taken as the place where at least two of the three criteria are met or, failing that, the place where the official retains his or her main family ties, confined in this instance to the official's father, mother or children.

3. If an official's centre of interests cannot be established by means of the criteria listed in the second indent of paragraph 2, his or her place of recruitment shall be determined as the place of origin.
4. If officials move from another institution to the Commission, their place of origin shall continue to be that determined by their previous institution of employment.

**Article 3**

Upon express reasoned request, submitted by the official in writing, and on production of appropriate documentary evidence, his place of origin may exceptionally be changed during his period of employment.

Such changes cannot be allowed unless the main family ties taken into account for determining the official's centre of interests have ceased to exist and a different centre of interests can be determined in accordance with the criteria referred to in the second indent of Article 2(2).

**Article 4**

If an official's centre of interests moves to a place outside the territories of the Member States of the Union as well as outside the countries and territories listed in Annex II to the Treaty on the Functioning of the European Union and the territories of the Member States of the European Free Trade Association his or her place of origin may by special decision of the appointing authority be changed, for the purpose of applying Article 7(1)(b) and Article 9(2) of Annex VII to the Staff Regulations, so as to fix his or her place of origin at a point on the frontier of the territories of the Union on the direct route to the centre of interests. In such a case, the place of origin shall remain unchanged for the purposes of applying Article 8 of Annex VII and Article 20(3) of Annex XIII to the Staff Regulations.

**Article 5**

Once officials reach the age of 55, they may request that their place of origin be changed, on production of appropriate documentary evidence relating to heritable interests in the form of immovable property already built or under construction. Article 4 shall apply.

**Article 6**

1. Upon termination of service and in the light of their place of resettlement, the place of origin of officials may be changed at their request and on production of appropriate documentary evidence, by special decision of the appointing authority. Article 4 shall apply.

2. Following termination of service, for family or medical reasons, officials who entered the service before 1 May 2004 and were not receiving a pension at that time may exceptionally request the appointing authority to change their place of origin. This decision shall be taken on production of appropriate supporting evidence by the person concerned. Article 4 shall apply.

**Article 7**

This Decision shall apply *mutatis mutandis* to temporary staff and contract staff in the framework of Articles 22 and 92 of the Conditions of Employment of Other Servants of the European Union. Moreover, Article 2(4) shall apply to former accredited parliamentary assistants entering into service as officials, temporary staff or contract staff.
Article 8

The Commission Decision of 15 April 2004 laying down general implementing provisions for giving effect to Article 7(3) of Annex VII to the Staff Regulations on determining the place of origin (C(2004) 1364/3) is repealed.

This Decision shall take effect on 1 January 2014.

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President
COMMISSION DECISION

of 16.12.2013

General Implementing Provisions
on removal expenses (Article 9 of Annex VII to the Staff Regulations)
COMMISSION DECISION

of 16.12.2013

General Implementing Provisions on removal expenses (Article 9 of Annex VII to the Staff Regulations)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union, in particular Article 9 of Annex VII thereto, and the Conditions of Employment of Other Servants of the European Union,\(^1\),

After having consulted the Staff Regulations Committee and the Staff Committee,

Whereas:

(1) Article 9 of Annex VII to the Staff Regulations, as amended with effect from 1 January 2014, provides that officials are entitled to the reimbursement of expenses incurred in respect of removal of furniture and personal effects, including the cost of insurance against ordinary risks, subject to cost ceilings.

(2) General implementing provisions should be adopted by the Appointing Authority of each institution to give effect to the provisions of the amended Staff Regulations on removal expenses.

(3) The ceilings should take into account the official's family situation at the time of removal and the average cost of removal and associated insurance, these should be established and reviewed by taking into account these aspects as well as the distance for the removal,

HAS DECIDED AS FOLLOWS:

Article 1

The following rules shall apply to officials, as well as temporary and contract staff who fulfil the conditions laid down in Articles 23 and 92 of the Conditions of Employment of Other Servants, (hereinafter staff members).

The provisions of this decision shall not apply to staff members to whom Articles 17 and 21 of Annex X to the Staff Regulations apply.

Upon entry into service, staff members shall be entitled to the reimbursement of removal expenses not more than one year after the end of the probationary period. They shall not be entitled to reimbursement of removal costs during the probationary period unless prior authorisation is given by the Appointing Authority. Staff members who do not have to serve a probationary period shall be entitled to the reimbursement of removal expenses not more than one year from taking up the duties or from changing to a new place of employment.

The costs for a removal effected prior to the entry into service of a staff member shall not be reimbursed.

\(^1\) OJ L 287, 29.10.2013, p. 15–62.
On termination of service, staff members shall be entitled to the reimbursement of removal expenses not more than three years after termination of service. When a staff member becomes entitled to invalidity allowance, he shall be entitled to the reimbursement of removal expenses not more than three years from the day when he becomes entitled to invalidity allowance.

The Appointing Authority may decide to extend the period for the reimbursement of removal once for one year for duly justified reasons, such as health issues or other reasons beyond the control of the staff member.

Article 2
The staff member shall be entitled to a reimbursement of removal costs within costs ceilings taking into account the staff member's family situation.

The family situation shall be taken into account at the time when the removal takes place. The family situation shall mean the staff member and the following family members: the spouse or registered partner within the meaning of Article 1 of Annex VII of the Staff Regulations, the unmarried partner within the meaning of Article 72 of the Staff Regulations, the dependent children within the meaning of Article 2 of Annex VII of the Staff Regulations and the persons recognised as dependent children within the meaning of Article 2(4) of Annex VII of the Staff Regulations on condition that they are actually living in the household of the staff member and are changing the residence together with the staff member.

If both spouses are entitled under the Staff Regulations to a reimbursement of removal costs at the same time and to the same destination, the reimbursement of removal costs shall be paid only once. If only one of the spouses is moving, the expenses shall be reimbursed as for a single person, with additional volume for every dependent child who is moving with him as provided in Article 7(b).

Article 3
In order to determine which items are covered by the reimbursement of removal expenses, reference shall be made to the interpretation of the definition of "personal property" in Article 2(1)(c) of Council Regulation (EC) No 1186/2009. With the exception of the costs for the removal of one cycle or motorcycle per family member as defined in Article 2 of these implementing provisions, the costs for the removal of other items, such as saddle animals, pets, vehicles, trailers, cycles and motor cycles shall not be reimbursed under Article 9 of Annex VII of the Staff Regulations.

Article 4
Upon entry into service, the staff member shall be entitled to the reimbursement of the expenses for the removal from his place of habitual residence to the place of employment.

Upon transfer or change of the place of employment, the staff member shall be entitled to the reimbursement of the expenses for the removal from his previous place of employment to his new place of employment.

Upon leaving the service of the EU, the staff member shall be entitled to the reimbursement of the expenses for the removal from his place of employment to his place of origin, determined

---

in accordance with the general implementing provisions giving effect to Article 7(4) of Annex VII to the Staff Regulations on determining the place of origin, or to any other place at the same or shorter distance.

**Article 5**

The contract for the removal shall be concluded between the staff member and the removal company. At least six weeks before the date of removal, the staff member shall send the estimate of removal expenses and an inventory to the responsible Commission department, using the form available on intranet.

The responsible Commission department shall approve the estimate of removal expenses and shall grant the reimbursement of the removal expenses within the limit of the cost ceilings as laid down in Article 6 of these implementing provisions.

If the removal was carried out without prior approval of the estimate by the responsible Commission department, the staff member shall not be entitled to the reimbursement of the removal expenses, except in duly justified cases.

The reimbursement shall be made on presentation of the invoice and proof of payment as well as an official document issued by the removal company confirming the date of delivery of the items removed. The Appointing Authority may agree to advance payment on presentation of the invoice if the removal expenses represent an amount equal or superior to two months basic salary.

**Article 6**

The cost ceiling for the reimbursement of removal expenses referred to in Article 9 of Annex VII shall be determined based on the following parameters:

a) Volume: the volume of the removal shall be the maximum volume as defined in Article 7. A fixed amount for loading/unloading, packing/unpacking and other handling operations shall be calculated on the basis of maximum volume;

b) Distance: amount based on kilometric distance depending on the price ranges defined in Article 9;

c) Insurance cost: Amount for the insurance calculated on the basis of the maximum volume as defined in Article 7.

**Article 7**

The maximum volume to calculate the fixed amount referred to in Article 6(a) shall be as follows:

a) For a single staff member who has no dependent children: 40 m³.

b) For a staff member who is entitled to the household allowance or who has a spouse, a registered or unmarried partner as referred to in Article 2: 50 m³ and additional volume of 10 m³ for every dependent child as defined in Article 2, with an overall maximum of 100 m³ for the entire family.

**Article 8**

The calculation of the fixed amount referred to in Article 6 (a) shall result from the multiplication of the volume of the removal by the moving index. The moving index shall
correspond to the average of reimbursements per m³ for all removals over the last 36 months. The moving index shall be reviewed monthly.

**Article 9**

The calculation of the amount referred to in Article 6 (b) shall be made on the basis of kilometric ranges. The distance between the places specified in Article 9 of Annex VII is based on the geographic distance between these two places. The "geographic distance" between the two places is determined by the orthodromic distance between the two points according to their latitude and longitude (geographic data) based on an appropriate database determined by the Appointing Authority. The maximum total amount shall be determined by adding each individual amount of every specific range:

The ranges used are:

<table>
<thead>
<tr>
<th>Kilometric range</th>
<th>Amount to be refunded</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 - 100 km</td>
<td>300 EUR lump sum</td>
</tr>
<tr>
<td>101-300 km</td>
<td>3 EUR/km</td>
</tr>
<tr>
<td>301-1500 km</td>
<td>2 EUR/km</td>
</tr>
<tr>
<td>1501-5000 km</td>
<td>1 EUR/km</td>
</tr>
<tr>
<td>5001-10.000 km</td>
<td>0,5 EUR/km</td>
</tr>
<tr>
<td>10.001 km or more</td>
<td>0 EUR/km</td>
</tr>
</tbody>
</table>

**Article 10**

The amount referred in Article 6 (c) shall be determined by multiplying the transported volume, within the limits set out in Article 7, by the fixed price of EUR 15 per m³.

**Article 11**

The removal expenses to be reimbursed shall be capped at the amount that is calculated by adding the fixed amount for volume, the amount based on the kilometric distance and the amount for the insurance as defined in Articles 8, 9 and 10, disregarding individual elements of calculations. This overall amount shall be the cost ceiling for the reimbursement of removal costs. If the actual removal costs are higher than the established cost ceiling, then the amount of correspond to the ceiling shall be reimbursed. In duly justified cases, the Appointing Authority may establish a higher ceiling than determined according to this methodology.

**Article 12**

If one or more family members as defined in Article 2 carry out the removal at a different date than the staff member, the staff member may ask for the reimbursement to be divided into not more than two instalments. Notwithstanding any such reimbursement by instalments, each part of the removal must be carried out within the time-limits provided for in Article 1.
**Article 13**

In order to ensure sufficient protection of legitimate interests of the staff members who made arrangements for their removals before the entry into force of this Decision, staff members who submitted estimates before 1 January 2014 shall not be subject to the cost ceilings established according to these implementing provisions. However, if the Appointing Authority considers the estimates to be excessive because the removal expenses significantly exceed the average price for such removals, the Appointing Authority shall determine a maximum amount to be reimbursed, taking into account the cost ceilings laid down in these implementing provisions.

**Article 14**

This decision shall be reviewed before the end of 2015 regarding the average cost of removals.

This decision shall take effect on 1 January 2014.

Done at Brussels, 16.12.2013

For the Commission

Maroš ŠEFCOVIČ

Vice-President
COMMISSION DECISION

of 16.12.2013

on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS)
COMMISSION DECISION

of 16.12.2013

on maternity leave and maternity pay for women whose maternity leave begins before the end of their contract (Articles 17 and 91 of CEOS)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (CEOS) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/681,

Whereas:

(1) Article 17 of the CEOS has been amended with the effect that temporary agents whose maternity leave begins before the end of their contract shall be entitled to maternity leave and maternity pay.

(2) Article 91 and 119 of the CEOS stipulate that Article 17 and 47 to 50a of the CEOS shall apply mutatis mutandis to contract agents.

(3) The concept of maternity pay under Article 17 of the CEOS, with respect to maternity leave, which begins before the end of the contract, has not been defined by the Staff Regulations.

HAS DECIDED AS FOLLOWS:

Article 1

For the purposes of Article 17 of the CEOS the agent is deemed to remain in service until the end of the statutory maternity leave. During this period the agent shall continue to receive the remuneration and other benefits to which she was entitled in the month preceding the month in which the contract expired, which will remain subject to all compulsory deductions for tax and social security purposes.

The period in which the maternity benefits are payable, as set in the previous paragraph, shall not end earlier than 14 weeks after the date of confinement; it may not be extended because of an illness or an accident.

---

Article 2

This Decision shall take effect on 1 January 2014.

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President
Decision on general provisions for implementing Article 87(1) of the Conditions of Employment of Other Servants of the European Union and implementing the first paragraph of Article 44 of the Staff Regulations

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union (‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68₁, and in particular Article 110(2) of the Staff Regulations and Articles 87(1) and 92 of the CEOS,

Having regard to Council Regulation (EC) 561/2014 of 6 may 2014 setting up the ECSEL Joint Undertaking,

Having regard to the Communication C(2014)6543 final of 26 September 2014 from Vice-President ŠEFČOVIČ to the Commission on the guidelines on the implementation of the Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110 (2) of the Staff Regulations C(2015) 1456 of 4/03/2015,

After consulting the Staff,

Whereas:

1) On 16 May 2014, the Commission informed ECSEL Joint Undertaking that it adopted Decision C(2014)2226 of 7 April 2014 on general provisions for implementing Article 87(1) of the CEOS and implementing the first paragraph of Article 44 of the Staff Regulations.

2) Article 110(2) of the Staff Regulations states that the implementing rules referred to in Recital 1 shall apply by analogy to ECSEL Joint Undertaking. By way of derogation, an agency may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.

3) Commission Decision C(2014)2226 is suitable to apply to ECSEL Joint Undertaking contract staff provided that certain adjustments are made to take into account the peculiarities of the Agency. Those adjustments concern in particular the identification of roles and rank of the actors in the procedure and specific cases laid down in the Annexes to that Decision.

4) The appraisal system applicable to the ECSEL Joint Undertaking staff is intended to provide regular and structured feedback in order to improve performance and contribute to future career development.

5) Under Article 43 of the Staff Regulations, applicable to contract staff by virtue of Article 87(1) of the CEOS, the annual report has to contain a statement as to whether the jobholder's performance has been satisfactory. Given the importance of this statement for the jobholder's career and remuneration, a procedural framework should be put in place.

6) Under Article 44 of the Staff Regulations, which applies by analogy to contract staff under Article 3a of the CEOS, in accordance with Article 92 of the CEOS, a staff member's advancement in step is subject to their performance having not been deemed unsatisfactory during their last annual report. An annex to this Decision should set out in more detail how to put this rule into practice.

**Article 1 – Scope**

These general provisions shall apply to members of the contract staff employed under Article 3a of the CEOS (hereinafter referred to as ‘staff members’) by ECSEL Joint Undertaking.

**Article 2 – Annual appraisal exercise**

1. Every year, a report covering the period from 1 January to 31 December of the previous year (hereinafter referred to as ‘the reporting period’) must be drawn up for each member of the contract staff engaged for a period of one year or more who has been in active employment for a continuous period of at least one month during the reporting period.

2. Each report shall include an individual qualitative appraisal of the staff member’s efficiency, ability and conduct in the service. It shall cover all the staff member’s professional activities.

3. Each report shall also include a conclusion on whether the staff member’s performance has been satisfactory. The conclusion that the jobholder’s performance has been unsatisfactory shall be based on factual elements.

**Article 3 – Respective roles and rank**

1. The reporting officer shall be the staff member’s direct superior and, as a general rule, the staff member’s head of unit on 1 December of the reporting period.

   The Executive Director shall assume the role of reporting officer for staff members of whom he/she is the direct superior.

2. The appeal assessor shall be the direct superior of the reporting officer at the time of the superior’s first intervention in the appraisal procedure as laid down in Article 6.
Where the Executive Director acts as reporting officer, the appeal assessor shall be the Chairperson of the Governing Board.

A staff member who has provided information under Article 22a(1) and (2) of the Staff Regulations, applicable to contract staff by virtue of Article 81 of the CEOS, may, at the time of his or her reasoned refusal to accept the report, provided for in Article 7(1), request that Chairperson of the Governing Board act as appeal assessor.

3. In exceptional cases, justified by the desire to act in the interests of the staff member or in the event of a change in the organisation chart of a service, the Director may derogate from paragraphs 1 and 2 above to take account of the specific context arising from the circumstances or the change respectively.

4. Subject to the agreement of his or her Director and after notifying the staff members concerned, the head of unit may delegate the role of reporting officer to officials or temporary staff members who manage and supervise the contract staff members and whom he or she considers capable of taking on this role. In that case, the head of unit shall approve the appraisal report and the head of unit’s direct superior shall act as appeal assessor. The head of unit may at any time withdraw the delegation of the role of reporting officer and perform that role himself/herself.

Heads of unit may, without relinquishing their role as reporting officer, delegate the preparatory work for the appraisal of staff members in their unit to an official or member of the temporary staff assigned to the unit whom they consider, in the light of the duties he or she performs within the unit and his/her abilities, to be capable of assuming that role.

5. Where a report needs to be drawn up and the reporting officer and/or appeal assessor, as defined in paragraphs 1 and 2 above, have in the meantime left the Agency definitively, the Director shall designate the most appropriate reporting officer and/or appeal assessor, taking into account the interests of the staff members concerned, and shall notify the staff members accordingly.

6. In the event of derogation from the provisions of paragraphs 1 and 2, staff members shall be told the name of the persons who are to act as reporting officer and appeal assessor.

Article 4 – Responsibilities in the case of an assessment of the staff member’s performance as unsatisfactory

1. A report concluding that the staff member’s performance has been unsatisfactory needs to be confirmed by a countersigning officer, except where a Director acts as reporting officer.
2. The countersigning officer shall be the direct superior of the reporting officer, except when the direct superior is the Director, in which case the countersigning officer shall be the head of unit/department [for executive agencies: head of unit/function] or equivalent in the Agency who is the most senior in the highest grade. Article 3, paragraphs (3), (5) and (6), shall apply mutatis mutandis.

3. The appeal assessor shall be the Director carrying out this duty at the time of his first intervention in the appraisal procedure. In the event that the Director acts as reporting officer, the appeal assessor shall be the Chairperson of the Governing Board.

Article 5 – Basis of the appraisal

The individual qualitative appraisal shall be based on the ability, efficiency and conduct in the service of the staff member, taking account of the context within which they have performed their duties. The individual qualitative appraisal shall not include a comparison with the performance of other staff members taken individually.

Article 6 – Appraisal procedure

1. The appraisal exercise shall be launched by the department in charge of human resources by publication of an administrative notice. It shall be administered by means of a secure electronic system.

2. For each staff member, the appraisal report is launched electronically. Once the report has been launched, a request to produce a self-assessment is automatically sent to the staff member. Within eight working days of receiving this request, the staff member must submit a self-assessment, which will be entered in the appropriate heading of the report. The purpose of this self-assessment is to prepare for the dialogue provided for in paragraph 3.

If the staff member does not submit a self-assessment within that time, without having been prevented from doing so by a justified absence, the reporting officer may immediately proceed to the formal dialogue provided for in paragraph 3.

3. The reporting officer shall then hold a formal dialogue with the staff member. With the agreement of the staff member, the reporting officer may ask one or more other officials or members of the contract or temporary staff who have supervised the staff member’s work to take part in the dialogue. If the reporting officer agrees, the staff member may arrange for an official or another staff member within the meaning of the CEOS to assist him or her during the dialogue.

---

2 Where the Agency does not have an electronic based system, the procedure shall be carried out manually and the relevant provisions shall be applied mutatis mutandis.
3 See footnote 2.
This dialogue shall constitute one of the reporting officer’s basic management duties. In the course of this dialogue, the reporting officer shall, jointly with the staff member:

(a) assess the staff member’s performance during the reporting period. The reporting officer shall, jointly with the staff member, consider the latter’s efficiency, the ability he or she has demonstrated and his or her conduct in the service during the reporting period;

(b) identify the staff member’s training needs.

4. If the staff member does not act on the invitation to take part in the formal dialogue, without having been prevented from doing so by a justified absence, the reporting officer may immediately draw up an individual qualitative appraisal as provided for in paragraph 5.

5. Within ten working days of the formal dialogue, the reporting officer shall draw up an individual qualitative appraisal of the staff member’s efficiency, ability and conduct in the service. For this purpose, the staff member’s justified absences may not be used to his or her disadvantage.

6. In the cases referred to in Article 4(1) the report shall then be transmitted to the countersigning officer.

The countersigning officer shall verify whether the appraisal procedure has been respected and whether the report has been drafted in a coherent manner, in accordance with these general implementing provisions and consistent with the staff member’s performance. He shall confirm, complete or modify the report.

7. In cases other than those referred to in Article 4(1) or after completion of the procedure provided for in paragraph 6, the report shall then be sent to the jobholder.

8. Within five working days of the date on which the staff member is invited to consult his or her report, he or she may accept the report with or without comments or refuse to accept the report, stating the reasons for refusal.

If the staff member does not refuse to accept the report within the deadline mentioned in the paragraph above, the report will be considered to have been accepted and become final.

Article 7 – Appeal procedure

1. A reasoned refusal by the staff member to accept the report in accordance with Article 6(8) shall automatically lead to the matter being referred to the appeal assessor. The staff member may withdraw his or her reasoned refusal to accept the report at any time.
At the request of the staff member, expressed in his or her reasoned refusal to accept the report, the appeal assessor shall hold a dialogue with the staff member within ten working days of the reasoned refusal. The staff member may be assisted during the dialogue by an official or other servant within the meaning of the CEOS, with the exception of the reporting officer. The appeal assessor may ask an official or other servant within the meaning of the CEOS, other than the reporting officer, to be present at the dialogue.

Within 20 working days of the reasoned refusal to accept the report and following the dialogue provided for in paragraph 2, the appeal assessor shall confirm the report or amend it, giving reasons.

In the case of a report assessing the staff member's performance as unsatisfactory, the appeal assessor shall consult the Agency entity in charge of human resources before taking his decision; the latter may in turn consult the Joint Committee.

The decision of the appeal assessor may not be based on facts which the staff member has not yet had an opportunity to comment upon in the course of the appraisal or the appeal procedure, unless he or she is given an opportunity to do so by the appeal assessor in good time.

The report shall become final by decision of the appeal assessor. The staff member shall be notified, by e-mail or other means, that the decision rendering the report final has been adopted, pursuant to this Article or Article 6, and that the report may be consulted in the electronic system. If the decision rendering the report final was adopted under this Article, the staff member shall at this point also have access to the appeal assessor's decision. Such notification constitutes communication within the meaning of Article 25 of the Staff Regulations. The period of three months in which to lodge a complaint, provided for in Article 90(2) of the Staff Regulations, starts to run on communication of the information.

**Article 8 – Time limits**

1. The time limits referred to in Articles 6 and 7 as they concern the staff member shall be calculated only from the time when the relevant decision has been notified to the person concerned or, at the latest, when the latter, acting as a diligent member of staff, may be expected to be aware of the content of this decision and the reasons for it.

---

4 See footnote 2.
2. These time limits will be suspended, however, if and for as long as the staff member is unable to use the electronic system, for example because of a justified absence.

Article 9 – Final provisions

1. In addition to the general rules laid down above, specific rules governing certain aspects of the appraisal procedure are defined in Annex I. These provisions shall apply by way of derogation from Articles 1 to 8.

2. The consequences for the advancement in step of an appraisal report concluding that the staff member’s performance level was unsatisfactory are set out in Annex II.


5. This Decision shall take effect on the date of its adoption and apply to reports established as of the 2015 appraisal exercise.

\* See footnote 2.
ANNEX I

SPECIAL CASES

1 – Specific situations

1.1. If, at the time when the appraisal exercise is launched, the staff member has left the service in application of Article 119 or Articles 47-50 of the CEOS, it is only necessary to draw up a report if the staff member submits an express request to that effect, in writing, to the appropriate reporting officer or to the Agency entity in charge of human resources, in the three weeks following the end of his or her employment at the latest. By derogation from Article 6(1) of these general implementing provisions, such a report may be drawn up on paper.

1.2. If, at the time when the appraisal exercise is launched, a decision has been taken leading to the termination of the employment of the staff member in application of Article 119 or Articles 47-50 of the CEOS and taking effect during the year covered by the exercise, the provisions of the preceding paragraph shall apply mutatis mutandis on the understanding that the staff member must make his or her request within three weeks following the launch of the exercise. If such a decision is withdrawn or cancelled, the appraisal procedure shall automatically resume for the staff member concerned, even if he or she has not requested that a report be drawn up.

1.3. Staff members who, at their own request, have been granted unpaid leave on personal grounds in accordance with Articles 17 and 91 of the CEOS shall receive a report covering the reporting period until the date on which the leave takes effect. Following their reinstatement a report shall be drawn up on such staff members covering the period from reinstatement until the end of the reporting period. If the period covered by these reports is too short for the staff member to be fully appraised during the reporting period concerned, the reporting officer will draft the report but make a note of this specific circumstance.

1.4. Where a staff member was unable to carry out his or her duties for an extended period by reason of illness, accident, parental leave or family leave, maternity leave or leave for military service, and as a result the period covered by the report was too short for the staff member to be fully appraised during the reporting period concerned, the reporting officer will draft the report but make a note of this specific circumstance.

2 – Mobility

If, during the reporting period but not less than four months after the period covered by the previous report or by the previous contribution included in the report,
i. the staff member is moved to another post within the Agency, his or her direct superior will draft a contribution on the staff member’s performance, which will be incorporated in the report;

ii. the staff member leaves the Agency to take up employment as referred to in Article 3a of the CEOS, in the same grade of the same function group, his or her direct superior of the Agency of origin will draft a contribution on the staff member’s performance, which will be incorporated in the report;

iii. an official or member of the temporary staff leaves a post by virtue of which he or she would have been called upon to carry out the duties of reporting officer with respect to a staff member, he or she shall draw up a contribution on the staff member’s performance, which will be incorporated in the report.

3 – Staff representatives

3.1. Reports on staff members who are assigned full-time or 50% part-time⁶ as staff representatives shall be drawn up by the Chair of the Staff Committee who shall act as the reporting officer. In the case of the Chair of the Staff Committee, the report shall be drawn up by another member of the Staff Committee as decided in writing and notified to the staff member by the Staff Committee and that member of the Staff Committee shall act as the reporting officer.

3.2. A report on a 50% part-time assignment shall be incorporated into the main report prepared pursuant to Article 6 of these general implementing provisions and the countersigning officer and appeal assessor shall be defined in accordance with Articles 3 and 4 of these general implementing provisions. The report shall cover the part of the staff member’s activity which is devoted to staff representation activities.

3.3. If no assignment takes place or when staff members dedicate less than 50% of their time to staff representation activities, a relevant contribution to the report referred to in Article 6 of these general implementing provisions shall be drawn up only upon request by the staff member to the Staff Committee. That contribution shall be sent to the staff member’s reporting officer pursuant to Article 6 of these general implementing provisions.

---

⁶ In cases of assignment established by a framework agreement.
ANNEX II - BLOCKING OF ADVANCEMENT IN STEP

1. In application of Article 92 and Article 20(4) of the CEOS, and also the first paragraph of Article 44 of the Staff Regulations, a staff member shall not advance to the next step in his grade if the last finalised report concluded that his performance was unsatisfactory.

   In the cases referred to in point 3.2 of Annex I, the consequences mentioned in the preceding subparagraph shall apply if either of the two reports to be established assesses the staff member's performance as unsatisfactory.

2. If the advancement in step is blocked pursuant to point 1, the jobholder shall again become due for an advancement after one year, subject to the provisions of point 1.

3. Four years after his/her entry into the grade or his/her last advancement in step, the staff member shall reach the step regardless of the reports.
ECSEL DECISION
laying down general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the Conditions of Employment of Other Servants of the European Union

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union (‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 2(f) and 56 of the CEOS,

Having regard to Council Regulation (EC) No 561/2014 establishing ECSEL Joint Undertaking

Having regard to the Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations,

After consulting the Staff,

Whereas:

(1) Article 2 of the CEOS, as amended, has introduced in its paragraph (f) a new category of temporary staff which is exclusively engaged by the agencies of the Union.

(2) Article 56 of the CEOS requires each agency to adopt, in accordance with Article 110(2) of the Staff Regulations, general provisions on the procedures governing the engagement and use of temporary staff referred to in Article 2(f) of the CEOS.

(3) Taking into account the need to set out a consistent staff policy for temporary staff in Union agencies, it is necessary to lay down specific coherent rules for the engagement of such staff with a view to facilitating their mobility both within an agency and between agencies.

HAS DECIDED AS FOLLOWS:

Chapter I
General provisions

Article 1 – Scope

This Decision shall apply to temporary staff engaged pursuant to Article 2(f) of the CEOS (‘temporary staff 2(f)’) by ECSEK JU without prejudice to specific provisions concerning middle managers which are laid down in (a) separate Decision(s).

Article 2 – Options for filling a post

1. A vacant post may be filled by internal mobility, by mobility between Union agencies or through engagement following an external selection procedure. The authority authorised to conclude contracts of employment (‘AACC’) may establish an order of priority between those options.

2. Without prejudice to Article 3, each time the AACC decides to fill a post, the post shall be published internally in the agency.

Chapter II

Filling a post by means of internal mobility

Article 3 – Reassignment in the interest of the service

1. The AACC may fill a post in the interest of the service by reassignment of a member of temporary staff 2(f) of the agency in accordance with Article 7 of the Staff Regulations, applicable by analogy to the temporary staff pursuant to Article 10(1) of the CEOS.

2. The reassigned member of staff is assigned to the new post by written decision of the AACC, without impact on the current contract of employment with the agency.

Article 4 – Internal publication of a post

1. The AACC may also decide to fill a post following internal publication. The means of publication, whether by intranet, internal notice, or another means, shall ensure the transparency of the procedure.

2. The post shall be published at the range of grades within a function group (grade bracket) corresponding to the type of post to be filled.

3. The internal publication shall specify inter alia:
   a) the function group, the type of post and grade bracket;
   b) the type of duties to be performed;
   c) the general conditions and qualifications required for the post (including those referred to in Article 12(2) of the CEOS);
   d) the specific conditions required for the post;
   e) the closing date for applications.

2 And where relevant post title and/or job type.
3 See footnote 2.
Article 5 – Eligibility

Internal mobility is reserved for temporary staff 2(f) who, on the closing date for applications and on the day of filling the post, are engaged within the agency in the function group and grade belonging to the grade bracket indicated in the internal publication.

Article 6 – Selection procedure in the case of internal publication

1. The AACC shall issue an internal notice describing the process applicable to all internal selection procedures. However, the AACC may decide to apply a selection procedure that better suits the interest of the service. Such decision shall be justified and registered in a central record by the AACC.

2. The selected member of temporary staff 2(f) shall be assigned to the new post by written decision of the AACC without impact on his/her current contract of employment with the agency.

Chapter III

Filling a post by means of mobility between Union agencies

Article 7 – Interagency publication of a post

1. The AACC may also decide to advertise a vacant post for temporary staff 2(f) by means of interagency publication, with a view to attracting temporary staff 2(f) that are employed by all other agencies referred to in Article 1a(2) of the Staff Regulations. That publication may be done at the same time as or following the internal publication.

2. The interagency publication for the post shall be published at the same grade bracket as the internal publication. However, the upper grade of the bracket may be reduced to comply with constraints deriving from the agency’s establishment plan.

3. Interagency publication shall specify inter alia:
   a) the nature of the selection (interagency selection);
   b) the function group, the type of post and grade bracket;
   c) the type of duties to be performed;
   d) the general conditions and qualifications required for the post (including those referred to in Article 12(2) of the CEOS);
   e) the specific conditions required for the post;
   f) the closing date for applications.

The elements in points (a) to (f) shall be the same as the elements indicated in the internal publication, without prejudice, as far as the grade is concerned, to Article 7(2). The closing date for applications may be also adapted if interagency publication takes place after internal publication.

Article 8 – Selection procedure

4 See footnote 2.
1. Article 6(1) shall apply *mutatis mutandis* to all interagency selection procedure.

2. The conclusion of contracts with staff in grades AD9 to AD12 pursuant to Article 55 of the CEOS in the framework of interagency mobility shall not be taken into account for calculating the total number of engagements in those grades referred to in the second paragraph of Article 53 of the CEOS.

*Article 9 – Eligibility*

1. Mobility between agencies shall be reserved for temporary staff 2(f) who, on the closing date for applications and on the day of filling the vacant post, are employed within their agency in a grade and function group corresponding to the published grade bracket and function group.

2. In addition, members of temporary staff 2(f) referred to in paragraph 1 should, as a general rule,
   a) have at least two years’ service within their agency before moving and any decision derogating from that principle shall be taken jointly by the two agencies concerned, having regard to the interest of the service of both agencies;
   b) have successfully completed the probationary period provided for in Article 14 of the CEOS, in the relevant function group. Where, in exceptional circumstances, the agency engages a member of temporary staff 2(f) who does not meet that condition⁵, such member shall serve a full probationary period with the new agency in accordance with Article 14 of the CEOS and the new contract is not considered as a renewal of contract but an *ex novo* contract.

*Article 10 – Contract and transfer of the personal file*

1. The agency and the selected staff member shall conclude a contract of employment which ensures continuation of the person’s employment and career in the category of temporary staff 2(f). That contract shall be concluded without interruption of the contract concluded with the agency of origin (‘the preceding contract’) and shall fulfil the following requirements, in particular:
   a) the same grade and the same seniority in the grade as the preceding contract;
   b) the same step and the same seniority in the step as the preceding contract.

2. As a general rule, the end dates of the contract concluded in accordance with paragraph 1 and of the preceding contract shall be the same. If the contract with the agency of origin was for an indefinite period, the member of temporary staff 2(f) shall also be engaged by the new agency for an indefinite period. In the event that the preceding contract comes to its natural end on the day of the move, the duration of the contract concluded in accordance with paragraph 1 shall be the same as that the new agency would have set in case of a renewal of contract of one of its agents.

3. Without prejudice to Article 9(2)(b), the member of temporary staff 2(f) shall not serve a probationary period in the new agency.

---

⁵ That is to say has not successfully completed the probationary period.
4. The selected staff member shall take up duty in the new agency in principle three months after the job offer, unless it is otherwise agreed between the two agencies and the staff member concerned.

5. The agency of origin shall transfer the personal file to the new agency no later than 30 days after the date of the move.

Chapter IV
Filling a post through engagement following external selection

Article 11 – General provisions
1. The AACC may also decide to fill a post by engaging a successful candidate from an external selection procedure. To that end, the AACC may either select a candidate from an existing reserve list, in which case external publication of the vacant post is not required or may decide to organise an *ex novo* selection procedure, in which case the AACC shall launch an external publication procedure.

Before organising an *ex novo* selection procedure, the AACC shall examine the existing reserve list(s) in order to ascertaining the need for a new selection.

2. If the AACC decides to organise an *ex novo* selection procedure, external publication may take place at the same time as internal and, if relevant, interagency publication or at a later stage.

3. Any selection procedure shall be organised at one single grade.

4. The selection procedure shall be carried out in accordance with the Annex.

Article 12 – Engagement
1. The AACC shall engage the member of temporary staff 2(f) by means of a contract concluded pursuant to Article 2(f) of the CEOS.

2. The contract referred to in paragraph 1 is always considered as the initial contract, even if the successful candidate from the external selection procedure is already a member of temporary staff 2(f) in the relevant function group or another function group. However, in the former case, the agency shall offer the person, in writing, the opportunity to be assigned to the post by means of mobility under the provisions of Article 6(2) or, subject to the establishment plan availabilities, Article 10 respectively, if the person prefers to ensure continuity of contracts.

Article 13 – Eligibility for external engagement
1. A member of temporary staff 2(f) may be engaged only on condition that he or she:
   a) fulfils the requirements referred to in Article 12(2) of the CEOS;
b) possesses the minimum qualifications required by Article 5(3) of the Staff Regulations\(^6\), applicable by analogy to the temporary staff pursuant to Article 10(1) of the CEOS;

c) has been successful in a selection procedure set out in the Annex or, by way of derogation and where justified in the interests of the service, has passed a recruitment competition for officials organised by European Personnel Selection Office (‘EPSO’).

2. The grade of the selection\(^7\) must belong to the grade bracket of the internal publication of the post to be filled. It must also comply with the agency’s establishment plan.

*Article 14 – Grading*

The member of temporary staff 2(f) shall be engaged in the function group and at the grade indicated in the selection notice.\(^8\)

*Article 15 – Probationary period*

The member of temporary staff 2(f) shall serve a probationary period in accordance with Article 14 of the CEOS.

**Chapter V**

*Common provisions concerning the application of Article 8(1) of the CEOS*

*Article 16 – Duration of contracts*

1. The Director of the agency shall establish the policy that the agency will apply on the duration of contracts, within the limits provided for in the CEOS. This policy shall be communicated to staff.

2. Where justified in the interest of the service, the AACC may decide to conclude contracts of a different duration to those set out in the policy referred to in paragraph 1. Those exceptions shall be recorded in the central record referred to in Article 6(1).

3. The policy referred to in paragraph 1 may contain provisions on temporary and specific needs. In particular, in duly justified cases, the AACC may decide to conclude contracts with a limited perspective in time. Such contracts are justified in particular for projects of limited duration, for cases where the agency needs to avail itself of up-to-date knowledge in a specific area (and accordingly, to renew staff) or for replacement of absences. In such cases, the AACC shall clearly inform the candidate, in the offer letter, contract, any potential renewal of contract and where relevant in the selection notice, that the contractual relationship with the agency has a limited perspective in time.

---

\(^6\) For the purposes of this Article, only diplomas that have been awarded in EU Member States or that are the subject of equivalence certificates issued by the authorities in the said Member States shall be taken into consideration. In the latter case, the AACC reserves the right to request proof of such equivalence.

\(^7\) The grade the competition when the candidate is drawn from an EPSO reserve list for officials.

\(^8\) The grade of the competition when the candidate is drawn from an EPSO reserve list for officials.
Such contracts may be concluded for a fixed period, or, only in duly justified cases, for a limited period. In the latter case, the contract is concluded for the duration of the particular task and shall be recorded in the central record referred to in Article 6(1).

Article 17 – Succession of contracts in case of interagency mobility

1. For the purposes of Article 8(1) of the CEOS the following principles shall apply:
   a) without prejudice to Article 9(2)(b), all the contracts or renewals of contracts as temporary agent 2(f) are taken into account regardless of the agency granting the initial contract or the renewal;
   b) a contract of employment concluded following interagency mobility shall not be considered as a renewal unless it ends at a later date than the previous contract, in which case it shall be treated as a renewal.

Chapter VI

Transitional and final provisions

Article 18 – Final provisions

1. [The general implementing provisions on the procedure governing the engagement and use of temporary agents [reference] at [Agency] of [date] are no longer applicable to temporary staff 2(f).]

2. The general implementing provisions in this Decision shall take effect on the day following that of their adoption.
ANNEX

External selection procedure

Article 1 – General principles

1. An external selection procedure may be organised either to fill one or more similar posts or to constitute a reserve list of successful candidates.

2. The selection procedure shall be launched by publication of the selection notice, which specifies inter alia:
   a) the nature of the selection (external selection to fill one or more similar post(s)/to constitute a reserve list), including the profile and the number of persons to be selected,
   b) the function group, the type of post/post title and grade;
   c) the type of tests;
   d) the type of duties to be performed;
   e) the general and specific conditions and qualifications required for the post;
   f) the required knowledge of languages;
   g) the closing date for applications;
   h) the validity of the reserve list;
   i) the agency or agencies involved.

3. The selection notice shall be published in all working languages of the agency on the website of the agency or agencies concerned, on the EPSO website and EU CV-Online website, as well as, if appropriate, on internet job boards and/or in the international, local and specialist press. The Permanent Representations of the Member States to the European Union and representatives of Member States who sit on the Management Board of the agency or agencies concerned may also be used as communication channels.

Article 2 – The selection procedure

1. The selection procedure shall be conducted to the same standards of EPSO’s competitions organised for officials with equivalent profiles and number of applicants.

2. When an agency or group of agencies is not in a position to meet the standards referred to in paragraph 1, the agency or group of agencies shall seek EPSO’s endorsement of the selection procedure before launching it. EPSO shall respond within the deadline agreed with the agency or agencies concerned.

3. In both cases, the selection procedure shall rely, in addition to examination of the applications, on one or more written and oral test(s). Such test(s) shall involve at least:

---

9 If the working languages are not established, the selection notice shall be published in all official languages of the European Union.

10 If the AACC decides, in exceptional cases, not to organise a written test, that decision should be duly justified in the central record as referred to in Article 6(1).
a) an anonymous qualifying part;
b) a part aimed at assessing the specific competencies required for the post(s);
c) a part aimed at assessing the general competencies required of European Union temporary staff 2(f).

The elements in points (a) to (c) may be grouped in one or more parts.

4. The selection procedure shall be conducted by a selection committee appointed by the AACC\(^1\) and composed of at least three members consisting of one chair and at least one member from the administration of the agency and one member designated by the Staff Committee.

In specific cases, in particular for selection procedures of experts, additional members may be designated from the agency or agencies concerned, from outside the agency or from outside the Union institutions.

The members\(^2\) of the selection committee shall be chosen from officials or temporary agents whose function group and grade is at least equal to that of the post to be filled.

When there are no officials or temporary agents in the agency fulfilling the requirement of function group and grade, the authority or authorities authorised to conclude contracts of employment may decide to designate officials or temporary agents from another agency or institution who fulfils that condition.

5. The selection procedure shall be organised by one of the following entities:

a) EPSO\(^3\), at the request of one or more agencies;
b) Group of agencies\(^4\); or
c) One agency\(^5\).

Article 3 – Grading of the selection procedure

1. Admissible grades

Temporary staff 2(f) selection procedures shall be organised at one of the following grades:

a) AST/SC 1 to AST/SC 2 for the function group AST/SC;
b) AST 1 to AST 4 for function group AST; or
c) AD 5 to AD 8 for function group AD.

2. Grade of the selection

Each time a selection procedure is organised, the AACC shall explain in writing the choice of the grade. Such explanation cannot refer to the place of assignment.

---

\(^1\) In the case of a selection procedure organised by a group of agencies, a selection committee shall be designated by agreement between the authorities authorised to conclude contracts of employment of agencies concerned.

\(^2\) The names of the selection committee members shall be disclosed to the candidates invited to interview or made public before the selection tests via the same website or websites on which the selection notice is published.

\(^3\) This option is in particular appropriate for general profiles such, but not limited to, human resources officers/assistants, EU lawyers/assistants, economists, IT officers/assistants, finance officers/assistants, secretary.

\(^4\) This option is in particular appropriate for specialist profiles common to several agencies, such as lawyers/assistants, programme officers/assistants, economists, researchers, in a particular area of agencies’ activities.

\(^5\) This option is in particular appropriate for specific profiles limited to the area of an agency’s activity.
3. The selection notice shall require a minimum number of years of professional experience acquired after the award of the qualification certifying the completion of the level of studies required as a condition of eligibility for the selection procedure. That minimum requirement shall be set by reference to the latest competition organised by EPSO for a similar profile. In the absence of such reference, the minimum number of years of professional experience set out in Table 1 shall apply.

Table 1

<table>
<thead>
<tr>
<th>Grade of engagement</th>
<th>Number of years of professional experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD 5</td>
<td>0 years</td>
</tr>
<tr>
<td>AD 6</td>
<td>3 years</td>
</tr>
<tr>
<td>AD 7</td>
<td>6 years</td>
</tr>
<tr>
<td>AD 8</td>
<td>9 years</td>
</tr>
<tr>
<td>AST 1</td>
<td>0 years</td>
</tr>
<tr>
<td>AST 2</td>
<td>3 years</td>
</tr>
<tr>
<td>AST 3</td>
<td>6 years</td>
</tr>
<tr>
<td>AST 4</td>
<td>9 years</td>
</tr>
<tr>
<td>AST/SC1</td>
<td>0 years</td>
</tr>
<tr>
<td>AST/SC2</td>
<td>4 years</td>
</tr>
</tbody>
</table>

Any deviation from the requirements set out in subparagraph 1 of this paragraph shall be justified in writing and registered in the central record provided for in Article 6(1). This justification cannot refer to the place of assignment.

4. Highly specialised positions

a) Subject to the limits established by Article 53 of the CEOS, and by derogation from the requirements of paragraph 1, an agency may engage a member of temporary staff 2(f) at grades AD 9, AD 10, AD 11, or on an exceptional basis at grade AD12. Those engagements shall be exceptional and shall be duly justified by the agency or agencies in the central record referred to in Article 6(1). This justification shall, inter alia, give the reasons for requiring such a high grade. This justification cannot refer to the place of assignment.

b) Engagement at the grades referred to in the subparagraph (a) shall require completed university studies of at least four years attested by a diploma\(^\text{16}\) and a minimum number of years of professional experience as set out in Table 2, both acquired in positions corresponding to the nature of duties of the vacant post(s).

c) The minimum number of years of professional experience referred to in subparagraph (b) shall be required after the award of the qualification certifying

\(^\text{16}\) Or completed university studies attested by a diploma and appropriate professional experience of at least one year when the normal period of university studies is at least three years.
the completion of the level of studies required as a condition of eligibility for the selection procedure.

Table 2

<table>
<thead>
<tr>
<th>Grade of engagement</th>
<th>Number of years of professional experience</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD 9/10</td>
<td>12 years</td>
</tr>
<tr>
<td>AD 11/12</td>
<td>15 years</td>
</tr>
</tbody>
</table>

Any deviation from the requirements set out in subparagraphs (b) and (c) shall be justified in writing and registered in the central record provided for in Article 6(1). This justification cannot refer to the place of assignment.
COMMISSION DECISION

implementing article 1d (4) of the staff regulations

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of employment of other servants of the Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 [1], and in particular Article 1d(4) thereof,

Whereas it is necessary, following the reform of the Staff Regulations, to adopt a decision giving effect to the new paragraph 4 of Article 1d thereof,

HAS DECIDED AS FOLLOWS:

 CHAPTER ONE: RECRUITMENT OF DISABLED PERSONS
   Article 1
   Article 2
   Article 3

 CHAPTER TWO: DISABILITY IN THE COURSE OF THE OFFICIAL’S CAREER
   Article 4
   Article 5
   Article 6

 CHAPTER THREE: REASONABLE ACCOMMODATION
   Article 7
   Article 8
   Article 9
   Article 10

 CHAPTER FOUR: UNDUE BURDEN
   Article 11
   Article 12
   Article 13

 CHAPTER FIVE: REQUESTS
   Article 14
   Article 15
   Article 16

 CHAPTER SIX: ENTRY INTO FORCE
   Article 17

A person with a disability meets the condition for appointment as an official laid down in Article 28(e) of the Staff Regulations, if s/he is physically and mentally able to perform the essential functions of the job when reasonable accommodation is made.

**Article 2**

In the exercise of his/her power to undertake a medical examination of successful candidates under Article 33 of the Staff Regulations, the medical officer shall, if the case arises, consider whether the candidate has a mental or physical impairment and, if so, state the nature of that impairment.

**Article 3**

Where the medical officer considers that a successful candidate has a mental or physical impairment, s/he shall state in his/her report whether the post for which it is proposed to recruit the candidate is or is not suitable for him/her or is only suitable if reasonable accommodation, as determined below, is provided. S/He shall also state whether in his/her opinion another post in the same function group would be suitable, with or without the provision of such accommodation.

**CHAPTER TWO: DISABILITY IN THE COURSE OF THE OFFICIAL’S CAREER**

**Article 4**

Where an official in active service acquires an impairment but can perform the essential functions of his or her job when reasonable accommodation is made, the official’s career shall not, subject to the provisions of Article 5 and Chapter 4 of the present decision, be prejudiced by the disability or the fact that such accommodation is required. The Appointing Authority may, however, seek the opinion of the Medical Service, in co-operation with a specialist designated in accordance with the provisions of the Code of Good Practice for the Employment of People with Disabilities (2), as to whether the official can still perform the essential functions of his or her job when reasonable accommodation is made.

**Article 5**

The opinion referred to in Article 4 shall be obtained prior to any decision constituting an Invalidity Committee under Article 78 of the Staff Regulations, regarding the question of the official’s total permanent invalidity.

**Article 6**

Where an official with a disability can perform the essential functions of the job when reasonable accommodation is made, the official’s career shall not be prejudiced by the disability itself, or the fact that accommodation is required.

**CHAPTER THREE: REASONABLE ACCOMMODATION**

**Article 7**

Where the question of the provision of reasonable accommodation arises under Article 3 or 4, the Medical Service shall, in co-operation with a specialist designated in accordance with the provisions of the Code of Good Practice for the Employment of People with Disabilities (2), examine whether it is possible to provide reasonable accommodation and, if so, specify the type(s) of accommodation required.

**Article 8**

Reasonable accommodation may involve the re-arrangement of duties or responsibilities, the provision of technical aids and/or other adjustments to the duties in question or to the working environment. These necessary changes should be made to facilitate the person’s employment.

Reasonable accommodation can include, _inter alia_,

- making existing facilities, already in use by employees, readily accessible to and usable by people with disabilities,
- job re-structuring,
provision of assistance,
part-time working or modified work schedules,
acquisition or modification of devices,
adjustment of training materials,
altering policies or practices.

Article 9

In facilitating a person with a disability in the performance of the essential elements of a job, a stringent standard shall be adopted in favour of providing reasonable accommodation.

Article 10

It shall be for the Appointing Authority to determine if the accommodation required constitutes an undue burden as set out in Chapter 4 of the present decision.

CHAPTER FOUR: UNDUE BURDEN

Article 11

The Appointing Authority may make a reasoned decision under Chapter 1 or 2 of the present decision to the effect that providing reasonable accommodation would impose an undue burden on the resources of the institution.

Article 12

For reasonable accommodation to impose an undue burden on the institution, the costs of providing it are such that they are more than the institution can reasonably be expected to bear.

Article 13

For the purpose of assessing whether the provision of reasonable accommodation imposes an undue burden, the following considerations, inter alia, shall be taken into consideration:

- the type and cost of the accommodation,
- the cost of making the accommodation, relative to the average overhead costs for each member of staff,
- the cost of making the accommodation, relative to the available budget,
- the number of people in the particular area who require accommodation,
- the health and safety needs of all staff.

CHAPTER FIVE: REQUESTS

Article 14

A person to whom Article 3 or 4 applies, or a representative on his/her behalf, may make a written request to the Appointing Authority for reasonable accommodation to be provided. However, the lodging of such a request shall not be a condition of the provision of such accommodation.

Article 15

The Appointing Authority shall reply to a request made under Article 14 hereof with all due diligence.

Article 16
The Appointing Authority shall make decisions on requests for reasonable accommodation on a case by case basis, having regard inter alia to Articles 8 and 13.

**CHAPTER SIX: ENTRY INTO FORCE**

*Article 17*

The present decision shall enter into force on 1 May 2004.

Done at Brussels, 7.4.2004.

Footnotes


COMMISSION DECISION

of 7.8.2013

on the guidelines for assistance with home care or care for a sick child
COMMISSION DECISION

of 7.8.2013

on the guidelines for assistance with home care or care for a sick child

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities, and in particular Articles 1e and 76 of the Staff Regulations and Articles 30 and 98 of the Conditions of Employment,

Having regard to the Commission Decision of 29 October 2008 amending the guidelines on assistance with help in the home and care for sick children,

Having regard to the Commission Decision of 25 April 2013 suspending the Commission Decision of 29 October 2008 amending the guidelines on assistance with help in the home and care for sick children,

Having regard to the opinion of the Central Staff Committee, issued on 8 July 2013,

WHEREAS:

(1) The Decision amending the guidelines on assistance with help in the home and care for sick children was adopted on 29 October 2008 and published as an Administrative Notice on 12 December 2008.

(2) The Commission provides its staff with assistance with the cost of help in the home and care for sick children within the limits of the funds available for the purpose. This financial assistance is an important social measure designed to alleviate the situation of recipients and their families who are facing serious domestic problems in their daily life as a result of loss of independence or other circumstances of an exceptional nature.

(3) The reduction in the funds available for help in the home and care for sick children, from € 871 000 in 2012 to € 448 000 in 2013, and to € 255 000 in 2014 makes it necessary to adapt the guidelines and concentrate assistance on the staff who need it the most.

(4) In the interests of the service, a higher eligibility ceiling should be set for assistance with the care of sick children than for assistance with the cost of home care, to allow officials and other servants in active employment who have a sick child to continue to carry out their duties without having to take leave,

HAS DECIDED AS FOLLOWS:

Article 1

The Commission shall provide its staff with assistance with the cost of home care and care for sick children (hereinafter ‘the assistance’) within the limits of the funds available for the purpose. This scheme shall be governed by the guidelines set out below.
Article 2

1. The assistance shall take the form of a financial contribution, granted for a limited period, towards the cost of help with essential day-to-day domestic tasks or of care for a sick child at home, provided that:

a) the home care or the care for a sick child does not consist of home medical or nursing care which is reimbursed by the Joint Sickness Insurance Scheme;
b) the assistance does not include heavy domestic work such as repairs, decorating or extensions to the family home;
c) the home care or the care for a sick child is provided directly to the recipient or to a member of his or her family as defined in Article 3;
d) proof of the need for home care or for care for a sick child has been provided in the form of a detailed medical certificate or a detailed opinion from a social worker, as the case may be, confirming that the help requested is appropriate to the illness or difficult social circumstances.

2. ‘Essential domestic tasks’ shall be taken to mean any task necessary to the running of the family home where the recipient lives (including cleaning, laundry and ironing) or to the continuation of a normal life for family members (including the preparation of meals and light shopping).

Article 3

1. Assistance with home care or care for a sick child shall be provided only to:

a) Commission officials in active employment;
b) Commission temporary staff for the duration of their contract, and also after expiry of the contract in cases where the provisions of Article 30 of the Conditions of Employment apply in respect of staff who are unable to work;
c) Commission contract staff for the duration of their contract, and also after expiry of the contract in cases where the provisions of Article 98 of the Conditions of Employment apply in respect of contract staff who are unable to work;
d) persons entitled to a retirement pension, an invalidity pension or an invalidity allowance;
e) those entitled under a European institution official who has died.

2. Assistance with home care or with care for a sick child shall be granted to the recipient for himself or herself and for members of his or her family. The recipient’s family shall be taken to be his/her spouse or stable non-marital partner recognised as such by the Commission within the meaning of Article 1 of Annex VII to the Staff Regulations, his/her dependent children, or any other person treated as a dependent child, provided that such persons live in the same household as the recipient.

Article 4

1. For such assistance to be granted the following conditions must be met:

a) recipients must be in a position where they are unable to carry out essential domestic tasks or care for a sick child themselves or to have such tasks performed by a member of their family as defined in Article 3(2), as substantiated by a detailed medical certificate or a detailed opinion issued by a social worker (see Article 9);
b) the person providing help in the home or caring for the sick child may not be a member of the recipient’s family or be related to a member of the recipient’s family; the recipient must make a declaration to this effect in the application for assistance;

c) the recipient must comply with employment legislation in the country where the service is provided;

d) where the assistance is requested for care for a sick child, it must not be possible for a member of the family as defined in Article 3(2) of these guidelines to look after the child;

e) the recipient must not be receiving any other official assistance of any kind for the same purpose.

2. Financial assistance may be granted only once in a given period and for a given recipient for each of the two types of assistance (home care and care for a sick child).

Article 5

Assistance may be granted in the following circumstances:

a) death of an official or other servant or his or her spouse or partner, with one or more dependent children;

b) physical or mental illness of the recipient or his or her spouse or partner;

c) convalescence following an accident suffered by the recipient or his or her spouse or partner;

d) loss of independence by the recipient or a member of his or her family as defined in Article 3(2), provided that he or she is not staying in a medical or paramedical establishment;

e) illness of a dependent child or person treated as a dependent child of the recipient, provided that he or she lives in the same household as the recipient;

f) particularly difficult social situation affecting the recipient as a result of serious circumstances, substantiated by a social worker in a detailed opinion.

Article 6

1. Assistance with home care will be granted only in cases in which the net monthly family income is lower than the basic salary of an official in grade AST 1/1. A derogation from this ceiling is possible for applicants whose net monthly family income exceeds the basic salary of an official in grade AST 1/1 by no more than 10% and who are in a particularly difficult medical and/or social situation.

2. Assistance with care for a sick child will be granted only in cases in which the net monthly family income is lower than the basic salary of an official in grade AST 1/1 plus 50%.

3. The Director-General of DG HR may review these ceilings by means of a decision published in the Administrative Notices. Revised ceilings shall enter into force on the day on which the decision of the Director-General of DG HR appears in the Administrative Notices.

4. Net family income is the sum of the net income of all the members of the family as defined in Article 3(2). ‘Net family income’ is defined as all income, whatever the source, received by the family members, after deduction of tax and compulsory social security contributions.
Article 7

1. The maximum period for which assistance may be granted under a single decision shall be six months. This period may be renewed if the difficult situation affecting the recipient persists.

2. In the case of a condition or loss of independence which seems likely to be of a permanent nature, as substantiated by a detailed medical certificate or a detailed opinion from a social worker, a decision may be taken, as of the second request for renewal, to grant assistance for a period of 12 months.

3. Assistance shall be granted in the form of a flat-rate payment. The need for the number of hours requested must be substantiated by a detailed medical certificate or a detailed opinion of the social worker. The following limits shall be applied:
   a) if the period for which assistance is granted does not exceed ten days, the flat-rate payment shall be made for a maximum of 100 hours over ten consecutive days;
   b) if the period for which assistance is granted is 11 days or more, the flat-rate payment shall be made for a maximum of 12 hours a week for the entire period. In that case the request must be assessed by a JSIS medical officer and/or by a social worker chosen by the Commission, depending on the nature of the circumstances.

4. In exceptional circumstances, and subject to the submission by the recipient of a detailed medical certificate or a detailed opinion from a social worker, as appropriate, and to a favourable opinion of a JSIS medical officer, the appointing authority may decide to allow an exception to the limits set out in this Article.

Article 8

1. The assistance shall be granted on the basis of the following flat-rate amounts (per hour of services provided):
   a) in the case of home care, the assistance provided shall be a flat-rate amount of €6.62 per hour;
   b) in the case of care for a sick child, the assistance provided shall be a flat-rate amount of €8.50 per hour.

2. The flat-rate amount to be taken into account in calculating the assistance is the one applicable at the time of the request.

The Director-General of DG HR may review these amounts by means of a decision published in the Administrative Notices. Revised flat-rate amounts shall enter into force on the day on which the decision of the Director-General of DG HR appears in the Administrative Notices.

The amount to be paid to the recipient shall be calculated by multiplying the flat-rate amount by the number of hours of home care or care for a sick child for which assistance has been granted for the period in question. It will take the form of a single payment for the entire period.

3. The flat-rate amounts shall be increased each year by two percent (2%) with effect from 1 January.

4. The appointing authority reserves the right to request an invoice or receipt, issued in accordance with the legislation of the country in which the service was provided, to check the amount actually spent by the recipient during the period for which assistance was granted. If the flat-rate amount paid to the recipient for a certain period exceeds the expenses actually
incurred by the recipient during the same period, the recipient shall undertake to inform the Commission and to reimburse the amount unduly received.

**Article 9**

1. The application for assistance, duly completed by the recipient, must be accompanied by the recipient's salary (or pension) statement and official documents providing proof of the net income of the other family members.

2. The recipient must attach to the application the medical certificates or any other relevant document providing proof of the inability of the other family members living in the same household to carry out the services for which the assistance has been requested.

3. The detailed medical certificate or the detailed opinion of a social worker, as the case may be, must also be attached.

In particular, this certificate or opinion must set out the medical or social reasons for the assistance, a practical description of what is requested, the number of hours per day or per week, and the period for which the assistance is considered to be essential.

4. The recipient must attach a detailed medical certificate in the following cases:
   a) illness, disability, loss of independence or convalescence of the recipient or his or her spouse or partner;
   b) illness of a dependent child or person treated as a dependent child of the recipient, provided that he or she lives in the same household as the recipient.

5. The recipient must attach the detailed opinion of a social worker in the following cases:
   a) death of a staff member and/or his or her spouse or partner, with one or more dependent children;
   b) any other difficult family circumstances necessitating home care.

6. The application for assistance, accompanied by the documents providing proof of the net family income and by the medical certificate or opinion of the social worker, must be submitted to the Commission department responsible for social financial assistance no later than the last day of the month following the date on which the home care or care for a sick child began. Late requests will automatically be rejected. By way of an exception they may be accepted if the applicant provides appropriate proof of the serious circumstances (e.g. a lengthy stay in hospital) which prevented him/her from submitting the request within the time limit laid down in this paragraph.

**Article 10**


**Article 11**

This Decision shall enter into force on 7 August 2013. It shall apply retrospectively to all requests submitted after the entry into force of the Commission Decision of 25 April 2013 suspending the Commission Decision of 29 October 2008 amending the guidelines on assistance with help in the home and care for sick children. This Decision shall not apply to requests submitted before the entry into force of the Commission Decision of 25 April 2013.
suspending the Commission Decision of 29 October 2008 amending the guidelines on assistance with help in the home and care for sick children.

Done at Brussels, 7.8.2013

For the Commission

Maroš ŠEFČOVIČ
Member of the Commission

CERTIFIED COPY
For the Secretary-General,

Jordi AYET PUIGARNAU
Director of the Registry
EUROPEAN COMMISSION
COMMISSION DECISION

of 5.11.2010

on the general provisions for implementing Article 42a of the Staff Regulations concerning parental leave
COMMISSION DECISION

of 5.11.2010

on the general provisions for implementing Article 42a of the Staff Regulations concerning parental leave

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68\(^1\), as last amended by Regulation (EC, Euratom) No 723/2004\(^2\) of 22 March 2004, and in particular Article 42a of the Staff Regulations,

Having regard to the opinion of the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas:

(1) it is necessary to have explicit and detailed rules for the application of the new parental leave provisions,

HAS DECIDED AS FOLLOWS:

Article 1 – General

1. Officials/other servants shall be entitled to parental leave under the conditions laid down in Article 42a of the Staff Regulations.

2. Parental leave is an individual right and may not be refused. Where parental leave is requested for a period immediately following maternity leave, adoption leave or leave for the birth of a child, it may not be postponed by the appointing authority. In all other cases it may, by way of exception, be postponed for a maximum of one month where duly justified by the interest of the service.

3. Where an official/other servant is granted full-time parental leave during his/her probationary period, the probationary period shall be suspended for the duration of the parental leave.

\(^{1}\) OJ L 56, 4.3.1968, p. 1.

Article 2 - Procedure

1. The request for parental leave shall be submitted by the official/other servant to his/her immediate superior for an opinion at least two months before the requested starting date; the period of two months is reduced to one month before the requested starting date if the duration of the requested leave is not more than two months or in the case of a request for parental leave to be taken directly after maternity or adoption leave; if the requested leave is to be taken directly after leave for the birth of a child the period is reduced to two weeks.

2. The request shall clearly indicate the name and the date of birth or adoption of the dependent child in respect of which parental leave will be taken, the exact duration, and whether parental leave is being requested on a full-time or half-time basis. In the case of an unborn child, the name and date of birth of the child must be supplied to the appointing authority within a month of the birth.

3. The request for parental leave may be renewed under the same terms, subject to the maximum duration specified in Article 42a of the Staff Regulations.

4. The appointing authority may, at the request of the official/other servant concerned, or in the case of a change in the circumstances which justified the granting of parental leave, withdraw the authorisation for parental leave before the expiry of the period for which it was granted. Both the appointing authority and the official shall give at least one month's notice thereof, unless otherwise agreed between the official and his/her department.

Article 3 - Parental leave taken on a half-time basis

1. In the case of parental leave taken on a half-time basis, the working time arrangements shall require the agreement of the immediate superior, taking into account the interest of the service, and the rules on working time arrangements for standard part-time work shall apply.

2. During half-time parental leave the official/other servant shall not be permitted to work overtime.

Article 3a - Withdrawal of authorisation for parental leave

1. Officials/other servants may request withdrawal of the authorisation for parental leave with retroactive effect due to illness. Such a request may be granted by the appointing authority in exceptional cases, taking into account the likely duration of the sick leave, the duration of the parental leave and the fact that the illness prevents the official from performing the tasks for which he/she had requested parental leave. In such cases, the authorisation may be withdrawn with effect from the first day of illness as attested by a medical certificate, provided that the request is made to the appointing authority as quickly as possible. The original medical certificate shall be sent to the Medical Service as soon as possible after the first day on which the person was unfit for work and no later than the fifth calendar day of absence, as evidenced by the postmark. However, the date of withdrawal may not be before the first day of the month in which the request for withdrawal was sent to the appointing authority.

2. In cases of force majeure, where officials/other servants are unable to request the withdrawal of the authorisation for parental leave themselves, their consent shall be assumed
and the withdrawal made on their behalf by the leave manager (GECO) in their DG, acting on a special ad hoc decision by the appointing authority.

**Article 4 - Single parent**

1. A single parent for the purposes of the first paragraph of Article 42a of the Staff Regulations is an official/other servant with a dependent child for which he/she has primary responsibility, and who exercises that responsibility alone, on condition that:

   - he/she is not married or, although married, is legally separated,

   and

   - he/she is not in a registered partnership within the meaning of Article 1(2)(c) of Annex VII to the Staff Regulations.

2. An official/other servant who requests parental leave as a single parent must declare on his/her honour that he/she has sole primary responsibility for the child. If necessary, the appointing authority may demand documentary proof thereof.

3. In exceptional circumstances, the appointing authority shall be able to conduct an assessment of any individual situation on the basis of a referral or on its own initiative.

**Article 5 - Leave entitlements during parental leave**

Annual leave entitlements for an official/other servant spending part of the year on parental leave are governed by the Commission Decision on implementing provisions on leave (Section III.b.3 “Parental leave”).

**Article 6 - Entry into force**

These general implementing provisions shall enter into force on 1 January 2011.

They repeal and replace the Commission Decision on Article 42a of the Staff Regulations concerning parental leave of 15 April 2004 (Administrative Notice No 54-2004 of 4 June 2004).

Done at Brussels, 5.11.2010

*For the Commission*

*Maroš ŠEFČOVIČ*

*Vice-President of the Commission*
COMMISSION DECISION

of 5.11.2010

on Article 42b of the Staff Regulations concerning family leave
COMMISSION DECISION

of 5.11.2010

on Article 42b of the Staff Regulations concerning family leave

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68\(^1\), as last amended by Council Regulation (CE, Euratom) No 723/2004 of 22 March 2004\(^2\), and in particular Article 42b of the Staff Regulations,

Whereas:

(1) it is necessary to have explicit and detailed rules for the application of the new family leave provisions,

HAS DECIDED AS FOLLOWS:

Article 1 - General

1. Provided that the conditions laid down in Article 42b of the Staff Regulations are met, an official/other servant shall be allowed to take family leave at his/her own request. The starting date of a period of family leave may in exceptional circumstances be delayed for a maximum of one month provided that such delay is in the interest of the service. In this case a reasoned decision shall be taken by the Appointing Authority. In urgent situations the starting date may not be delayed.

2. Where an official/other servant serving a probationary period is granted family leave in the form of full-time leave, the probationary period is suspended for the duration of the family leave.

---

\(^1\) OJ L 56, 4.3.1968, p. 1.
Article 2 - Procedure

1. A request for family leave shall be submitted by the official/other servant to the Appointing Authority through his/her immediate superior at least one month before the requested starting date, except on grounds of urgency. The minimum duration of family leave shall be 10 consecutive working days.

2. The request for family leave shall clearly indicate the name and date of birth of the person in respect of whom family leave is to be taken, the person's family relationship with the official/other servant, the planned duration of the leave, and whether family leave is being requested on a full-time or a part-time basis.

3. The request shall be accompanied by a medical certificate to be sent to the medical service with a diagnosis of the illness or handicap and confirming its seriousness. Where the medical certificate is not available at the time the request is submitted, it shall be provided within two weeks of that date.

4. The request for family leave may be renewed under the same terms, subject to the maximum duration for such leave as specified in Article 42b of the Staff Regulations.

5. The Appointing Authority may, at the request of the official/other servant concerned, or in the case of a change in the circumstances which justified the granting of family leave, withdraw the authorisation for family leave before the expiry of the period for which it was granted. Both the Appointing Authority and the official shall give at least one month's notice thereof, unless otherwise agreed between the official and his/her department.

Article 3 - Family leave taken on a part-time basis

1. In the case of family leave taken on a part-time basis, the working time arrangements must be approved by the immediate superior, taking into account the interest of the service, and the rules on working time arrangements for standard part-time work apply.

2. During family leave on a part-time basis the official/other servant shall not work overtime.
Article 3a – Withdrawal of authorisation for family leave

1. Officials/other servants may request withdrawal of the authorisation for family leave with retroactive effect due to illness. Such a request may be granted by the Appointing Authority in exceptional cases, taking into account the likely duration of the sick leave, the duration of the family leave and the fact that the illness prevents the official from performing the tasks for which he/she had requested family leave. In such cases, the authorisation may be withdrawn with effect from the first day of illness as attested by a medical certificate, provided that the request is made to the Appointing Authority as quickly as possible. The original medical certificate shall be sent to the Medical Service as soon as possible after the first day on which the person was unfit for work and no later than the fifth calendar day of absence, as evidenced by the postmark. However, the date of withdrawal may not be before the first day of the month in which the request for withdrawal was sent to the Appointing Authority.

2. In cases of force majeure, where officials/other servants are unable to request the withdrawal of the authorisation for family leave themselves, their consent shall be assumed and the withdrawal made on their behalf by the leave manager (GECO) in their DG, acting on a special ad hoc decision by the Appointing Authority.

Article 4 - Leave entitlements during family leave

Annual leave entitlements for an official spending part of the year on family leave are governed by the Commission Decision introducing implementing provisions on leave (in section III b 4 "Family leave").

Article 5 - Entry into force

This Decision shall enter into force on 1 January 2011.

They repeal and replace the Commission decision on Article 42b of the Staff Regulations concerning family leave of 14 April 2004 (Administrative Notice No 64-2004 of 15 June 2004).

Done at Brussels, 5.11.2010

For the Commission

Mário ŠEFČOVIČ
Vice-President of the Commission
COMMISSION DECISION of 14.4.2004

on Article 55b of the Staff regulations concerning job-sharing

THE COMMISSION OF THE EUROPEAN COMMUNITIES,


Whereas the Appointing Authority may lay down detailed rules for the application of the new job-sharing provisions,

HAS DECIDED AS FOLLOWS:

Article 1 - General: Access to job-sharing

1.1 An official may request authorization to work half-time in the form of job-sharing as defined in Article 55b of the Staff Regulations. He may do so by applying for a vacant post published and identified by the Appointing Authority as appropriate for that purpose.

1.2 Exceptionally the Appointing Authority may authorize an official to work part-time in the form of job-sharing on the post currently occupied by him; in that case only the vacant "half" of the post will be published. The authorization to work half-time for the official initially occupying the post full-time may then be subject to an agreement on the working time schedule (see pt. 3 below).

Article 2 - Procedure

2.1 An application to job share shall be lodged by each official concerned, clearly indicating the desired time arrangement. Where simultaneous applications are lodged by two officials wishing to become "job-sharing partners", each application shall be examined separately by the Appointing Authority, taking into account the preferences expressed as regards the potential job-sharing partner.

2.2 The Appointing Authority may chose any of the job-sharing applicants to job-share or may decide to fill the post by a candidate who wishes to work full-time.

Article 3 - Working hours

3.1 Individual working hours shall be agreed between the job-sharing partners and approved by the Appointing Authority before appointment to the job-sharing post. This arrangement shall remain applicable over the entire job-sharing period and may be modified only with the written approval of
both job-sharers and the Appointing Authority.

3.2 Working hours shall be shared between job-sharing partners in a manner that fully covers every working day. Where necessary, a minimum period of overlapping time may be foreseen.

3.3 Job-sharing options include splitting days or alternating days or weeks.

*Article 4 - Office*

4.1 Job-sharers shall use the same office and office equipment.

*Article 5 - Duration of job-sharing*

5.1 Job-sharing is intended to be a long-term arrangement for half-time work; it shall always be requested and granted for an unlimited duration.

*Article 6 - Termination of job-sharing*

6.1 A job-sharer wishing to terminate half-time work may do so by applying for a vacant full-time post, or, by submitting a request, giving at least six months' notice. In the latter case, he may be transferred or reassigned to a different post. In these cases, the vacant half of the post will be published.

*Article 7 - Leave entitlements*

7.1 Annual leave entitlements for an official authorized to work half-time in the form of job-sharing shall be curtailed by half.

*Article 8 - Entry into force*

8.1 These rules shall enter into force on 1 May 2004.


Footnotes
(1) JO L 56 du 4.3.1968.
(2) JO L 124, 27.4.2004, p. 1).
COMMISSION DECISION - of 15.4.2004

on General implementing provisions concerning persons to be treated as dependent children (Article 2(4) of Annex VII to the Staff Regulations)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities laid down by Regulation (EEC, Euratom, ECSC) No 259/68 of the Council of 29 February 1968, as last amended by Council Regulation (EC, Euratom) No 723/2004 of 22 March 2004 (OJ No L 124, 27.04.2004), and in particular Articles 67 and 110 of the Staff Regulations, Article 2(4) of Annex VII thereto and Article 127 of the Conditions of Employment of other servants,

Having regard to the Opinion of the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas:

1. It is necessary, in view of the judgment of the Court of 7 May 1992 in Case C-70/91 and in the light of experience, to revise the general provisions for giving effect to Article 2(4) of Annex VII to the Staff Regulations adopted by the Commission in 1989;

2. Generally, under Article 2(4) of Annex VII to the Staff Regulations treatment of a person as a dependent child may be allowed only exceptionally "by special reasoned decision of the appointing authority"; the appointing authority, in assessing the facts and circumstances invoked in support of applications for such treatment, thus enjoys a wide margin of discretion; in the interests of equal treatment for all officials, certain objective criteria should however be established in order to ensure that these powers of assessment are exercised uniformly;

3. To this end there is a need to define the factors to be considered in assessing whether the maintenance of such a person involves heavy expenditure for the official,

HAS ADOPTED THESE PROVISIONS:

SECTION 1 -- GENERAL

Article 1

SECTION 2 -- LEGAL RESPONSIBILITY FOR MAINTENANCE

Article 2

Article 3

Article 4

SECTION 3 -- HEAVY EXPENDITURE

Article 5

Article 6

Article 7

Article 8

Article 9

SECTION 1 – GENERAL

Article 1

The purpose of these general provisions is to specify the conditions under which a person may be treated as a dependent child pursuant to Article 2(4) of Annex VII to the Staff Regulations. Treatment as a dependent child may be authorised by the appointing authority provided all the conditions set out below are satisfied.

SECTION 2 - LEGAL RESPONSIBILITY FOR MAINTENANCE

Article 2

Legal responsibility for maintenance means the obligation between relatives by blood or marriage expressly laid down by law, to the exclusion of any obligation of a contractual, moral or compensatory nature.

Officials’ financial obligations towards their spouse or former spouse are not covered by Article 2(4) of Annex VII to the Staff Regulations.

Article 3

1. Where there exist factors connecting the case with more than one law, the applicable law shall be determined in accordance with the rules concerning conflicts of laws applicable by the court having jurisdiction.

2. The court having jurisdiction shall be determined in accordance with the rules concerning the choice of court including, where appropriate, those laid down by the relevant international agreements, notably the amended Brussels Convention of 27 September 1968 on Jurisdiction and the Enforcement of Judgments in Civil and Commercial Matters.

For the purpose of the provision set out in paragraph 1, officials shall be assumed to be resident at their place of employment, in the absence of evidence to the contrary.

Article 4

It shall be for the official to establish, on the basis of supporting documents, the existence of legal responsibility for maintenance, the expenditure stemming from it and the amount of the financial contribution actually made.

Treatment as a dependent child may be authorised only if the expenditure stemming from the legal responsibility for maintenance is at least equal to the amount resulting from such authorisation.

The appropriate departments shall provide the official with any guidance needed on this Section, particularly with regard to the nature of the supporting documents required.

SECTION 3 - HEAVY EXPENDITURE

Article 5

1. The cost to the official of maintaining the person whose treatment as a dependent child is requested shall be taken into consideration only up to an amount equivalent to:

   40 % of the basic monthly salary of an official in the first step of Grade 1, \(^{(1)}\) where that
person permanently resides in the official's household;

50% of that basic monthly salary where that person does not permanently reside in the official's household;
the said amounts being reduced by the person's net income.

2. Where an official requests that several persons living in the same household be treated as dependent children, the cost of maintaining those persons shall be taken into consideration:

for the first person, up to the amount specified in paragraph 1;

for the second person, up to 25% of the basic salary referred to in paragraph 1 where that person does not permanently reside in the official's household and 20% where he or she does;

for the remaining person(s), up to the amount of the dependent child allowance specified in Article 2(1) of Annex VII to the Staff Regulations;
the said amounts being reduced by the net income of the persons to be treated as dependent children.

3. Where the person whose treatment as a dependent child is requested is married, the net incomes of the couple shall be taken into consideration, as if treatment as dependent children were being requested for both spouses.

4. An increase in this cost of maintenance shall be taken into consideration where evidence is provided of regular additional expenditure occasioned by the person whose treatment as a dependent child is requested, in respect of:

that part of the remuneration of a nurse whose attendance on that person has been prescribed by a doctor, including any social security contributions, which is not met by the national or Community authorities;

contributions to a sickness insurance scheme for the person to be treated as a dependent child;

medical expenses not reimbursed by a sickness insurance scheme in excess of, as a monthly average, 2% of the basic salary of an official in the first step of Grade 1(1);

board and lodging in a home for the elderly, exceeding 50% of the basic salary of an official in the first step of Grade 1, (1), up to a maximum of 20% of that salary.

5. A maximum cost of maintenance shall be determined in the case of an official requesting treatment of three or more persons as dependent children. It shall correspond to the difference between the official's net salary plus any other net income, and the basic salary of an official in the first step of Grade 1 (1), plus any household allowance and dependent child allowance(s). Should the amount thus obtained be less than the cost of maintenance as determined by the other provisions of Section 3, it is that amount which shall serve as the reference for establishing heavy expenditure.

Article 6

Where persons other than the official also have a legal responsibility for maintaining the person whose treatment as a dependent child is requested, the cost taken into consideration in accordance with Article 5 shall be reduced by that part of the costs of maintaining that person which they are required to bear.

For the purpose of determining that amount, all the persons with a legal responsibility for maintaining the person whose treatment as a dependent child is requested shall be presumed to share the cost of maintenance specified in Article 5 in proportion to their net income.

Article 7

The income of the person whose treatment as a dependent child is requested and that of the persons having legal responsibility for his or her maintenance means income of any kind, including unearned income, family allowances and other allowances and pensions.

It also includes the rental value of any dwelling owned by the person whose treatment as a dependent
child is requested or of which he or she is the usufructuary. This rental value shall be fixed at 12% of the basic salary of an official in the first step of Grade 1 \(^{(1)}\).

The income to be taken into consideration shall be the net monthly income of the persons concerned, calculated by dividing net annual income by twelve.

**Article 8**

The amounts laid down in the Staff Regulations and those referred to in Articles 5, 6, 7, 9 and 12 of these general provisions shall be weighted using the weightings for the country of employment of the official and the place of residence of the other persons concerned, in accordance with the second indent of Article 3(5) of Annex XI.

If the income referred to in Articles 5, 6, 7, 9 and 12 of these general provisions is not expressed in euros, it shall be converted at the euro rate applicable on the day when the entitlement takes effect.

**Article 9**

Without prejudice to Article 10, maintenance of the person whose treatment as a dependent child is requested shall be deemed to involve heavy expenditure for the official where the amount of the cost of maintenance taken into consideration in accordance with Article 5, less:

- the amount of the contributions by other persons to this maintenance in accordance with Article 6 and
- all the official's net income from other sources,

is more than 20% of the taxable amount of the official's remuneration. Any other person already being treated as a dependent child of the official shall not be taken into consideration for the purpose of calculating the taxable amount.

This percentage shall be increased by ten points in respect of each of the other persons whose treatment as dependent children is requested.

If the official's remuneration is based on part-time employment, it is the full-time salary that shall be taken into consideration for the purpose of calculating the taxable amount referred to above.

**Article 10**

By way of exception, the appointing authority may authorise treatment as a dependent child where the amount of the cost of maintenance reduced, where appropriate, by the amounts specified in Article 9 is equal to or less than the percentage of income specified in that Article, on condition that maintenance of that person involves particularly heavy expenditure for the official.

**SECTION 4 - DECISION TO AUTHORISE TREATMENT AS A DEPENDENT CHILD**

**Article 11**

1. The decision by the appointing authority shall be taken on the basis of a written application accompanied by documentary evidence concerning all the factors which have to be taken into account pursuant to these general provisions.

2. Where a favourable decision is taken, it shall take effect from the first day of the month during which the official lodges the application and submits the necessary supporting documents and shall cease to be valid one year from that date at the latest.

   An application may be made for it to be renewed.

3. The official shall inform the administration of any change in the circumstances on which the decision granting the allowance was based.

   Where the conditions for maintaining this decision in force cease to be satisfied as the result of such a change, the decision shall be revoked with effect from the first day of the month following that during which the change occurred.
Article 12

1. From the time the favourable decision is taken, the official must provide evidence that he or she is contributing regularly to the maintenance of the person being treated as a dependent child by a monthly amount at least equal to:

- 20% of the taxable amount of his or her remuneration, calculated on the basis of the full basic salary, plus all other net income; persons treated as dependent children shall not be taken into consideration for the purpose of calculating the taxable amount; or
- the additional amount received as a result of the favourable decision plus 20%; whichever is the higher.

2. Where the treatment of several persons as dependent children is authorised, the percentage specified in the first indent of the above paragraph shall be increased by ten in respect of each of those persons after the first.

3. The evidence referred to in paragraph 1 shall not be required where the person treated as a dependent child permanently resides in the official's household.

   The responsible department may check by appropriate means that this condition is being met.

4. In the absence of proof of payment for all or part of the term of validity of the decision, the said decision shall cease to be operative for the periods concerned and any sums received by the official for those periods shall be recovered by the administration in accordance with Article 85 of the Staff Regulations.

SECTION 5 - REPEALING, TRANSITIONAL AND FINAL PROVISIONS

Article 13

These provisions repeal and replace the general implementing provisions concerning persons to be treated as dependent children, adopted by the Commission on 28 September 1989 with effect from 1 October 1989.

Article 14

These provisions shall take effect, after adoption by the Commission, on the first day of the month following their publication in the Administrative Notices.

Decisions taken on the basis of the previous general implementing provisions shall remain valid until their expiry.


Footnotes

(1) For the period from 1 May 2004 to 30 April 2006: Grade D*1, step 1.
COMMISSION DECISION

on General implementing provisions on granting the household allowance by special decision

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968, as last amended by Council Regulation (EC, Euratom) No 723 of 22 March 2004, and in particular Articles 67 and 110 of the Staff Regulations of officials and Article 1(2)(d) of Annex VII thereto,

Having regard to the opinion of the Staff Regulations Committee,

After consulting the Staff Committee,

HAS ADOPTED THE FOLLOWING PROVISIONS:

SECTION 1 - GENERAL PROVISIONS

Article 1

Article 2

SECTION 2 – DEFINITION OF MEMBERS OF OFFICIALS’ FAMILIES AND AGE CRITERIA

Article 3

Article 4

SECTION 3 – FAMILY MEMBERS LIVING WITH OFFICIALS

Article 5

Article 6

SECTION 4 - INCOME OF MEMBERS OF OFFICIALS’ FAMILIES

Article 7

Article 8

Article 9

Article 10

Article 11

Article 12

SECTION 5 – FINAL PROVISIONS

Article 13

Article 14

Article 15

SECTION 1 - GENERAL PROVISIONS

Subject to the conditions specified below, an official who is widowed, divorced, legally separated or...
unmarried and has no dependent children within the meaning of Article 2(2) and (3) of Annex VII to the Staff Regulations, but who nevertheless actually assumes family responsibilities shall be entitled to the household allowance by special reasoned decision of the appointing authority based on supporting documents.

Article 2

The allowance shall be granted if the person in respect of whom the allowance is claimed:

- is a member of the official’s family;
- actually lives with the official on a permanent basis; and
- is unable to provide for his or her own upkeep.

These criteria are defined in greater detail in the following sections of these general implementing provisions.

SECTION 2 – DEFINITION OF MEMBERS OF OFFICIALS’ FAMILIES AND AGE CRITERIA

Article 3

For the purposes of Article 2, the following shall be deemed to be members of officials’ families:

- relatives in the direct ascending or descending line;
- brothers or sisters,
- father-in-law, mother-in-law, son-in-law or daughter-in-law.

Exceptionally, however, the appointing authority may, after consulting the administrations of the other Institutions, grant applications by officials citing other family ties.

Article 4

Members of officials’ families in respect of whom the allowance is claimed must be:

- over 60 years of age, or
- under 18 years of age, or under 26 years of age if they are receiving educational or vocational training or are seeking employment and can produce documentary evidence to that effect from the relevant authorities of the State where they reside; or
- suffering from an illness or infirmity preventing them from providing for their own upkeep.

SECTION 3 – FAMILY MEMBERS LIVING WITH OFFICIALS

Article 5

Applications must relate to members of officials’ families who live with them or with whom they live on a permanent basis during the entire period for which the allowance is granted, as defined in Article 13(2) of these general implementing provisions.

This condition shall no longer be satisfied where the official and the family member cease to live together for a continuous period of more than one month during the period for which the allowance is granted. In this event, the allowance shall be payable only in respect of the time during which they live together.

Article 6

The Institution shall take all reasonable steps to see that the conditions of Article 5 are satisfied.

In particular, from the beginning of the second month after an allowance is granted, it may check at any time during the period covered by the allowance whether the family member is continuing to live with the official.
SECTION 4 - INCOME OF MEMBERS OF OFFICIALS' FAMILIES

Article 7

Persons shall be deemed unable to provide for their own upkeep if their income is less than 25% of the basic salary of a official in Grade 1, step 1(1).

Article 8

Income of a member of an official's family shall be deemed to mean income of all kinds, including in particular investment income, family and other allowances, and pensions.

It shall also include the rental value of any dwelling owned by the family member or of which the family member is the usufructuary, even where the official lives under that person's roof. This rental value shall be fixed at 12% of the basic salary of an official in Grade 1, step 1(1).

However, the following costs shall be deducted from the income of the family member where they are not reimbursed:

- the cost of employing a sick-nurse to attend the family member, if prescribed by a doctor;
- contributions to an insurance scheme for the family member;
- that portion of any medical expenses incurred by or on behalf of the family member which, on a monthly average, is in excess of 2% of the basic salary of an official in Grade 1, step 1(1).

These costs shall be deductible whether they are paid by the official or the family member.

Article 9

The income to be taken into account shall be the net monthly income of the member of the official's family, calculated by dividing his or her annual income by twelve.

Article 10

Where officials qualify for the allowance under Articles 3 to 6 of these general implementing provisions in respect of several members of their family who are themselves linked by marriage or by parental or filial ties, the income criterion shall be deemed to be satisfied if the sum of their incomes divided by their number is less than 25% of the basic salary of an official in Grade 1, step 1(1), even where one of them has an income equal to or greater than this ceiling.

Article 11

Where the allowance is claimed in respect of an official's brother or sister, even if he or she has no means whatsoever, the allowance shall be granted only where their parents' income is less than or equal to the presumed cost of maintenance as defined in Article 5 of the general provisions for giving effect to Article 2 (4) of Annex VII to the Staff Regulations.

Article 12

The amounts referred to in Article 7, the second paragraph of Article 8, the third indent of the third paragraph of Article 8, and Article 10 of these general provisions shall be subject to the weighting for the country of residence of the persons concerned, in accordance with the second indent of Article 3(5) of Annex XI.

If the income referred to in Articles 9 to 13 of these provisions is not expressed in euros, it shall be converted at the euro rate applicable on the day when the entitlement takes effect.

SECTION 5 – FINAL PROVISIONS

Article 13

1. The appointing authority's decision shall be taken on the basis of a written application accompanied by supporting documents relating to all the factors which have to be taken into account under these
general implementing provisions.

2. If the application is granted, the decision shall take effect from the first day of the month in which the official submits the application and shall be valid for no more than twelve months from that date. An application may be made for it to be extended.

The officials concerned shall inform the administration of any change in the circumstances on which the decision granting the allowance was based.

If the conditions for granting the allowance are no longer satisfied as a result of such a change in circumstances, the decision shall be revoked with effect from the first day of the month following that in which the change occurs.

Article 14

These provisions shall apply by analogy to temporary, auxiliary and contract staff.

Article 15

These provisions shall enter into force on the day following their adoption. They shall take effect on 1 May 2004.

Done at Brussels, 15.04.2004

Footnotes

(1) Pour la période du 1er mai 2004 au 30 avril 2006: grade D*1, premier échelon.
COMMISSION DECISION

GENERAL IMPLEMENTING PROVISIONS FOR GIVING EFFECT TO ARTICLES 67 AND 68 OF THE STAFF REGULATIONS AND ARTICLES 1, 2 AND 3 OF ANNEX VII THERETO

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 ¹, as last amended by Council Regulation (EC, Euratom) No 723/2004 of 22.3.2004 ², and in particular Articles 67 and 68 of the Staff Regulations of officials and Articles 1, 2 and 3 of Annex VII thereto, as well as Articles 20 and 65 of the Conditions of Employment of other servants,

Having regard to Articles 5, 10, 11 and 12 of Council Regulation (EEC, Euratom, ECSC) No 2074/83 ³ amending the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities and providing for family allowances to be paid to a person, other than the official, who has custody of one or more of the official's dependent children,

Having regard to the opinion of the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas clarification is required regarding the application of Articles 67 and 68 of the Staff Regulations and Articles 1, 2 and 3 of Annex VII thereto concerning the payment of family allowances in order to facilitate the direct payment of such allowances to the persons having custody of one or more of the official's dependent children,

HAS ADOPTED THESE PROVISIONS:

- **CHAPTER ONE** Common provisions on family allowances
  - Article 1
  - Article 2
  - Article 3
  - Article 4
  - Article 5
- **CHAPTER 2** Provisions on the household allowance
  - Article 6
  - Article 7
CHAPTER 3 Education allowance

Article 8
Article 9
Article 10

CHAPTER 4 Final provisions

Article 11
Article 12

CHAPTER ONE Common provisions on family allowances

Article 1

For the purposes of applying the Staff Regulations of officials and the Conditions of Employment of other servants of the European Communities, the term:

"custody" or "alternating custody" shall be interpreted according to the national law under which custody was granted,

"person other than the official" shall mean any legal or natural person other than the official to whom custody of one or more children has been granted in accordance with the law or pursuant to a court decision or decision of the competent administrative authority,

"residence" shall mean the place where the person having custody of the child can prove that he or she actually and habitually lives.

Article 2

Officials in receipt of family allowances shall make a declaration stating whether or not they have custody of their children. If they receive family allowances for one or more children who have reached the age of majority, they shall indicate the marital status and place of residence of each of them.

Officials who state that they do not have custody of one or more of their children shall also specify in the declaration their family situation, the place of residence of the children of whom they do not have custody, the names and addresses of persons having custody of one or more of their children and the amounts of family allowances paid from other sources either to themselves, to the person having custody of one or more children or to the children direct.

Supporting documents must be attached to that declaration, failing which payment of the family allowances may be suspended.

Article 3

Payment of family allowances shall automatically be made in the name and on behalf of the official to a person other than the official who has custody of the child; that other person may also assert his or her right to be paid the family allowances direct by producing appropriate documentary evidence.

Where custody of the same child alternates between two persons and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons concerned laying down the precise pro rata duration of the custody, half of the family allowances shall be paid to each person. Visiting rights shall not be regarded as custody.

Article 4

Family allowances shall be paid to a person other than the official irrespective of whether the official is
required to pay maintenance.

Where both family allowances and maintenance are paid to such a person, it shall be up to the official to take the requisite measures to ensure that account is taken of family allowances paid direct.

However, in paying family allowances to a person other than the official over a given period, the Institution shall take account of amounts which it is liable to pay or has paid to that person under a national attachment order pertaining to an obligation to make payments of the same nature.

Article 5

As provided in Article 85 of the Staff Regulations, the Institutions shall recover sums wrongfully paid to a person other than the official on behalf and in the name of the official.

CHAPTER 2
Provisions on the household allowance

Article 6

The household allowance may be paid to a person other than the official only where the official does not have custody of any of the children. Where custody of the same child alternates and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons concerned laying down the precise pro rata duration of the custody, half of this allowance shall be paid to each of the persons sharing custody of the child.

Article 7

Where more than one person has custody of the children of an official, and one or more of those persons are entitled to the household allowance in their own right, the rule laid down in the third subparagraph of Article 1(5) of Annex VII to the Staff Regulations, whereby two such allowances may not be received concurrently, shall apply only to the amount of the household allowance divided pro rata in accordance with the second subparagraph of that same paragraph.

CHAPTER 3
Education allowance

Article 8

For the purposes of the third paragraph of Article 3(1) of Annex VII to the Staff Regulations:

- the concept of the place of employment shall be replaced by that of the place of residence of the person who has custody of the child,

- the concept of entitlement to the expatriation allowance and the terms “nationality” and “language” referred to in Article 3 of Annex VII to the Staff Regulations shall relate to the official alone.

Article 9

Where custody of one or more children alternates and there is no court order or order of the competent administrative authority or, in the absence of such an order, no stable agreement between the persons concerned laying down the precise pro rata duration of the custody, the amounts paid under the education allowance shall be halved between the official and the person or persons having custody of the child or children.

Article 10

Where transport costs are paid direct by the Institution, the relevant amounts shall be taken into account in calculating the ceilings referred to in Article 3 of Annex VII to the Staff Regulations.

CHAPTER 4
Final provisions
Article 11

These provisions shall apply by analogy to temporary staff, contract staff and, within the limits prescribed in Article 65 of the Conditions of Employment of other servants, auxiliary staff.

Article 12

These provisions shall enter into force on the day following their adoption. They shall take effect on 1 May 2004.


Author: PMO/1
COMMISSION DECISION

on General implementing provisions for Article 4 of Annex VIII to the Staff Regulations concerning the taking into account, for purposes of calculating pension rights, of periods of activity previously completed by staff before they resume active employment

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of Officials and Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, EURATOM, ECSC) No 259/68(1) and last amended by Council Regulation (CE, Euratom) No 723/2004 of 22 March 2004 (2), and in particular Article 4 of Annex VIII thereto,

Having regard to the opinion of the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas it is necessary, following the amendment of Article 4 of Annex VIII to the Staff Regulations of officials of the European Communities by Regulation (EC, Euratom) No 723/2004(2), to replace the existing general implementing provisions for Article 4,

HAS ADOPTED THESE PROVISIONS:

SECTION 1 – GENERAL PROVISIONS

Article 1

The following types of staff - referred to below as "staff (member)(s)" - shall be entitled to invoke Article 4 of Annex VIII to the Staff Regulations:

- officials,
- temporary agents within the meaning of Article 2 of the Conditions of Employment of Other Servants of the European Communities,
- contract staff within the meaning of Article 3a or 3b of those conditions.

Article 2

Staff may request that the institution in which they are employed take into account, for the purposes of calculating their pension rights, the total duration of their period of completed activity in the institutions before they resumed active employment, either as

- an official or
a temporary agent or
contract staff.

Article 3

Regardless of their status, staff must submit their request no later than six months from the expiry of the minimum period required to qualify them for the right referred to in Article 77 of the Staff Regulations. If this period has not expired by the time the staff member has reached the age of retirement within the meaning of Article 77 of the Staff Regulations, the request has to be submitted no later than 6 months after the date on which he attains this age.

The request must be addressed to the competent department of the institution in which they are employed. Requests must be submitted in writing, using the form provided for this purpose and preferably sent by registered post with acknowledgement of receipt. They can be submitted starting from the date on which the staff member is established in their post or the date on which their probation period finishes or, if they are not subject to a probation period, the date on which they take up their post.

Requests received before the end of the probation period may not be processed by the competent department until this period has ended.

The date that counts shall be the date on which the competent institution takes delivery of the request sent by registered post or, failing that, the date on which the request is registered with the competent department of the institution.

Article 4

Taking account of the periods of activity referred to above shall be subject to the conditions set out in Article 4 of Annex VIII to the Staff Regulations.

Taking account of previously completed periods of activity as contract staff for staff who resume employment as officials or temporary officials shall not affect the terms of Article 3(d) of Annex VIII to the Staff Regulations.

Article 5

The repayment must be made by the staff member within three months of the date on which he is notified of the amount to be repaid.

Article 6

1. The crediting of pensionable years under Article 4 of Annex VIII to the Staff Regulations may not lead to the total pension payable by the Communities exceeding the ceilings set by the pension scheme.

2. Where relevant, the pensionable years taken into account shall go towards determining the actuarial equivalent transferable under Article 11(1) or Article 12 of Annex VIII to the Staff Regulations.

3. The pensionable years credited to contract staff who become officials or temporary officials, or who are reinstated in the service of the Community with one of these statuses, shall be converted into pensionable years acquired by an official subject to the terms of Article 3 of Annex VIII to the Staff Regulations.

4. The number of pensionable years to be taken into account may not under any circumstances exceed the number of years for which the staff member in question has been part of the Community scheme.

SECTION 2 – FINAL PROVISIONS

Article 7

These general implementing provisions for Article 4 of Annex VIII to the Staff Regulations shall enter into force on 1 May 2004. They hereby repeal and replace the general implementing provisions adopted on 2 July 1969. However, the latter shall remain applicable to applications submitted before 1 May 2004.

Footnotes
(1) OJ L 56, 4.3.1968.
COMMISSION DECISION

of 3.3.2011

on the general implementing provisions for Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights
COMMISSION DECISION

of 3.3.2011

on the general implementing provisions for Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights

THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968, and in particular Articles 11 and 12 of Annex VIII thereto¹,

Having regard to Council Regulation (EC, Euratom) No 1324/2008 of 18 December 2008 adjusting, from 1 January 2009, the rate set out in Article 8 of Annex VIII to the Staff Regulations of Officials of the European Union²,

Having regard to the opinion of the Staff Regulations Committee,

Whereas the Report from the Commission to the Council (COM(2008) 592 final) on the 2008 actuarial assessment of the Pension Scheme of European Officials, presented on 26 September 2008 in accordance with Article 14 of Annex XII to the Staff Regulations, updates the parameters referred to in that Annex based in particular on the adoption of new mortality and invalidity tables or the revision of the interest rate provided for in Article 10 of Annex XII to the Staff Regulations,

Whereas it is therefore necessary to update the conversion coefficients used for the calculation of the actuarial equivalent that can be transferred in application of Article 11(1) and Article 12 of Annex VIII to the Staff Regulations, on the one hand, and for the calculation of the number of years of pensionable service to be credited in application of Article 11(2) and (3) of Annex VIII to the Staff Regulations, on the other, and it is therefore necessary to replace the existing implementing provisions for those articles,

After consulting the Staff Committee,

¹ OJ L 56, 4.3.1968.
HAS DECIDED AS FOLLOWS:

SECTION 1 - GENERAL PROVISIONS

Article 1

These general implementing provisions are intended to specify the conditions under which Articles 11 and 12 of Annex VIII to the Staff Regulations are applied. Those Articles cover transfers of pension rights acquired by:

- permanent officials,
- temporary staff within the meaning of Article 2 of the Conditions of Employment of Other Servants of the European Union (CEOS),
- contract staff within the meaning of Article 3a or 3b of those conditions,

hereinafter referred to as “staff member(s)”.

SECTION 2 - PROVISIONS RELATING TO ARTICLE 11(1) AND ARTICLE 12

Article 2

1. Staff members who cease employment to:

    - enter the service of a government administration or of a national or international organisation;

    or

    - pursue an activity in an employed or self-employed capacity by virtue of which they acquire pension rights,

may request the institution by which they are employed to transfer the actuarial equivalent of their retirement pension rights, updated to the actual date of transfer, provided that they have not already begun to receive a pension under the Staff Regulations,

    - to a government administration or a national or international organisation, or

    - to the bodies managing the pension schemes to which the former official is affiliated by reason of the employed or self-employed activity.

2. Alternatively, staff members who have not reached pensionable age within the meaning of Article 77 of the Staff Regulations, who permanently cease employment for a reason other than their death or invalidity and who are not entitled to a retirement pension may request the transfer of the actuarial equivalent of their pension rights to a private insurance company or pension fund of their choice, provided that it guarantees that:
the capital will not be paid out;
– a monthly income will be paid from age 60 at the earliest, and age 65 at the latest;
– provisions are included for reversion or survivors' pensions;
– transfer to another insurance company or other fund will be authorised only on the same conditions as those laid down in the first, second and third indents.

**Article 3**

1. When staff permanently cease employment for a reason other than death, invalidity or because they have started to draw their retirement pension, their institution will notify them of the amount of the actuarial equivalent that corresponds to their entire pension rights acquired to that date under the European Union pension scheme.

2. The transfer, under Article 11(1) or Article 12 of Annex VIII to the Staff Regulations, shall become permanent and irrevocable once written agreement for it has been provided by:
   – the administration, organisation, body, insurance company or pension fund referred to in Article 2, and
   – the staff member and the institution in which they are employed.

3. By giving this agreement, staff shall effectively waive their entitlement and that of their dependants to any other pension rights under the European Union pension scheme.

**Article 4**

1. The amount of actuarial equivalent (TrA) shall be calculated by the institution in which the staff member is employed at the time of ceasing employment on the basis of the retirement pension due to the staff member on the date on which employment permanently ceases [the pension being the product of the person’s annual salary (SAL), the number of pensionable years (PYears) and the annual rate of pension-right accumulation (AnnRights)] and the latest conversion coefficient values (TrCoeff) laid down in the table in Annex 1, according to the formula:

   \[ \text{TrA} = \text{SAL} \times \text{PYears} \times \text{AnnRights} \times \text{TrCoeff} \]

2. The actuarial equivalent calculated by this method shall be updated by a new calculation on the date on which the corresponding payment order is created.
SECTION 3 - PROVISIONS RELATING TO ARTICLE 11(2) AND (3)

Article 5

1. Staff members who enter the service of the European Union after: leaving the service of a government administration or of a national or international organisation, or

– pursuing an activity in an employed or self-employed capacity,

shall be entitled, between the date on which they are established in their post or the end of their probation period (or, if they are not subject to a probation period, the date on which they take up their post) and the date on which they become eligible for payment of a retirement pension under the terms of Article 77 of the Staff Regulations, to have paid to the European Union the capital value, updated to the date of the actual transfer, of pension rights acquired by virtue of such service or activities.

Pension rights acquired by virtue of Articles 42 and 112 of the CEOS may be transferred, as part of a simultaneous regularisation procedure as provided for in Articles 40 and 110 of the CEOS, even if those rights have been acquired after entry into service with the European Union.

If the staff member has already started receiving payments under the scheme in question based on the rights referred to in the first paragraph, as either a pension or an income, the transfer may be carried out only if agreement is obtained from that scheme.

Requests for the transfer of pension rights must be submitted to the competent department of the institution in which the staff member is employed. Requests shall be submitted in writing, using the form provided for this purpose and preferably sent by registered post with acknowledgement of receipt. They can be submitted as early as the date on which the staff member is established in their post or the date on which their probation period finishes or, if they are not subject to a probation period, the date on which he takes up his post.

Applications received before the end of the probation period may not be processed by the competent department until this period has ended.

Regardless of their status, staff must submit their application within six months of the end of the period needed to qualify them for the right referred to in Article 77 of the Staff Regulations. If the end of this period has not been reached by the time the staff member has reached pensionable age within the meaning of Article 77 of the Staff Regulations, the application must be submitted no later than 6 months after the date on which he or she reaches this age.

Applications must be submitted within the periods referred to above, even if no agreement has been reached with the pension scheme(s) in question on suitable arrangements for the transfer.
The date that counts shall be the date on which the competent institution takes delivery of an application sent by registered post or, failing that, the date on which the application is registered with the competent department of the institution.

In any unbroken period during which they are members of the pension scheme for officials of the European Union, staff may exercise this option once only for each of any pension schemes they may belong to, regardless either of the administrative status under which they invoked the right to do so or of the European Union institution, agency or office in which they performed the duties that made them eligible for the right.

The competent institution shall terminate the procedure if, on the date on which the member of staff resigns or on which their contract ends, they have been either working for less than the 10 years needed to be eligible for a European Union pension or have not reached pensionable age within the meaning of Article 77 of the Staff Regulations, and if it has not proved possible to obtain the final agreement of the staff member regarding the number of pensionable years to be credited to the European Union pension scheme.

2. Staff members who are reinstated after

- a period of secondment under the second indent of Article 37(1)(b) of the Staff Regulations, or

- a period of leave on personal grounds under Article 40 of the Staff Regulations or Articles 17 and 91 of the CEOS,

may request the transfer of the capital value, updated to the date of the actual transfer, of pension rights acquired during the secondment or period of leave on personal grounds.

This provision shall not have the effect of re-opening any periods that have already closed for submitting a transfer application under Article 11(2) of Annex VIII to the Staff Regulations.

If the period provided for in paragraph 1 has expired, staff shall have a period of six months from the date of their reinstatement within which to request the transfer of only those rights acquired during the period of secondment or leave on personal grounds.

Article 6

1. Without prejudice to the second subparagraph of Article 5(1), any amounts to be transferred, owed to staff members from their previous pension scheme, must be certified as being the updated capital value of the pension rights acquired before they took up their post with the European Union, or, for applications under Article 11(3) of Annex VIII to the Staff Regulations, before their reinstatement.

2. The amount to be transferred must correspond to the whole of this capital value. It may correspond to the rights acquired from periods spent in the service of more than
one administration or organisation or from more than one period of activity in an employed or self-employed capacity.

Article 7

For the purposes of calculating the years of pensionable service to be credited under Article 11(2) and (3) of Annex VIII to the Staff Regulations:

1. The number of pensionable years to be taken into account shall be calculated on the basis of the transferable amount of rights acquired during the periods referred to in the first subparagraphs, respectively, of Article 5(1) and (2), minus the amount of capital appreciation between the date on which the transfer application is registered and the date of the actual transfer.

Where the national or international body is not able to supply the value of the pension rights on the date on which the application is registered, simple interest at the rate provided for in Article 8 of Annex VIII to the Staff Regulations shall be deducted from the amount transferred for the period from the date on which the application is registered to the date of the actual transfer.

2. The number of years of pensionable service to be taken into account \((PYears)\) shall be calculated:

- on the basis of the transferred amount \((TrA)\), the annual salary \((SAL)\) to which the staff member is entitled on the date on which their application is registered, the annual rate of pension-right accumulation \((AnnRights)\) and the latest conversion coefficient values \((TrCoeff)\) laid down in the table in Annex 1, according to the formula:

\[
PYears = \frac{TrA}{SAL \times AnnRights \times TrCoeff}
\]

- for staff members who entered into service before 1 May 2004, the bonus obtained shall be subject to a coefficient \((CR)\) (see table in Annex 2) to take account of the provisions of Article 22(1) and (2) of Annex XIII to the Staff Regulations, comprising amendments to the pensionable age and to the rate of increase of rights acquired after the normal pensionable age of the staff member concerned.

3. Amounts transferred to the European Union pension scheme in a currency other than euros shall, for the purposes of determining the number of pensionable years, be converted into euros on the basis of the monthly rate set by the Commission for the implementation of the budget in the month in which the application is registered.

4. For the purposes of applying points 1, 2 and 3, and if the institution in question finds that the transfer was not possible on the date when the staff member announced their interest due to a lack of agreement with the pension scheme in question on suitable arrangements for doing so, the date to be taken into account shall be the date on which the application is registered.
5. Where the application is registered during the probation period, the date to be taken into account shall be that on which the staff member is established or on which the probation period ends.

6. The number of pensionable years to be taken into account may not under any circumstances exceed the number of years during which the staff member in question was a member of the schemes in question. Any excess amount resulting from the ceiling on the number of pensionable years shall be reimbursed to the staff member concerned.

**Article 8**

1. The crediting of pensionable years may not lead to the total pension payable by the European Union exceeding the ceilings set by the pension scheme.

2. The pensionable years credited shall, where appropriate, be taken into account for the purpose of determining the transferable actuarial value pursuant to Article 11(1) or 12 of Annex VIII to the Staff Regulations.

3. The pensionable years taken into account shall not go towards determining the minimum number of completed years of service that qualify staff for a retirement pension under Article 77 of the Staff Regulations.

4. The pensionable years credited to contract staff who become officials or temporary staff, or who are reinstated in the service of the European Union with one of these statuses, shall be converted into pensionable years acquired by an official subject to the terms of Article 3 of Annex VIII to the Staff Regulations.

5. Any decision signed by a staff member giving instructions for the capital sum representing his pension rights to be paid to the European Union is, by its nature, irreversible.

**SECTION 4 - FINAL PROVISIONS**

**Article 9**

These general implementing provisions for Article 11(1), (2) and (3) and Article 12 of Annex VIII to the Staff Regulations shall enter into force on the first day of the month following the date on which they are published in the Administrative Notices.

They shall repeal and replace the general implementing provisions adopted on 28 April 2004\(^3\).

However, the latter implementing provisions shall continue to apply to transfers under Article 11(1) and Article 12 of Annex VIII to the Staff Regulations in cases where the termination of service took place before 1 January 2009. They shall also continue to apply to the cases of staff whose request for a transfer under Article 11(2) and (3) of Annex VIII to the Staff Regulations had been registered before 1 January 2009.

The conversion coefficients \((TrCoeff,)_x\) laid down in Annex 1 shall apply from 1 January 2009. They shall be automatically amended following any adjustment of the interest rate set out in Article 8 of Annex VIII to the Staff Regulations.

Done at Brussels, 3.3.2011

For the Commission
Maros SEFCOVIC
Member of the Commission
Annex 1

Pursuant to Council Regulation (EC, Euratom) No 1324/2008 of 18 December 2008, the following conversion coefficients \((TrCoeff_x)\) shall apply from 1 January 2009\(^4\).

This Annex lists the coefficients \((TrCoeff_x)\) for converting outgoing amounts (in euros) or incoming amounts from other pension schemes \((TrCoeff)\) for a person aged \(x\) years into a theoretical retirement pension \((PenTheor)\).

\[
TrCoeff_x = \frac{TrA}{PenTheor}
\]

Given that the theoretical pension \((PenTheor)\) is based on the annual salary of the person aged \(x\) years at the date of the conversion \((SAL)\), the number of pensionable years \((PYears)\) and the annual rate of pension-right accumulation \((AnnRights)\), the above-mentioned formula becomes:

\[
TrCoeff_x = \frac{TrA}{SAL \times PYears \times AnnRights}
\]

These coefficients are calculated by age on the basis of the parameters laid down in Annex XII to the Staff Regulations for purposes of calculating the transferable amount of actuarial equivalent under Article 11(1) and Article 12 of Annex VIII to the Staff Regulations and the number of pensionable years to be credited under Article 11(2) and (3) of Annex VIII to the Staff Regulations.

<table>
<thead>
<tr>
<th>Age at the date of application ((x))</th>
<th>Conversion coefficient (TrCoeff_x)</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>13.998</td>
</tr>
<tr>
<td>21</td>
<td>14.070</td>
</tr>
<tr>
<td>22</td>
<td>14.131</td>
</tr>
<tr>
<td>23</td>
<td>14.204</td>
</tr>
<tr>
<td>24</td>
<td>14.266</td>
</tr>
<tr>
<td>25</td>
<td>14.336</td>
</tr>
<tr>
<td>26</td>
<td>14.404</td>
</tr>
<tr>
<td>27</td>
<td>14.484</td>
</tr>
<tr>
<td>28</td>
<td>14.548</td>
</tr>
<tr>
<td>29</td>
<td>14.629</td>
</tr>
<tr>
<td>30</td>
<td>14.689</td>
</tr>
<tr>
<td>31</td>
<td>14.761</td>
</tr>
<tr>
<td>32</td>
<td>14.825</td>
</tr>
<tr>
<td>33</td>
<td>14.902</td>
</tr>
<tr>
<td>34</td>
<td>14.960</td>
</tr>
<tr>
<td>35</td>
<td>15.032</td>
</tr>
<tr>
<td>36</td>
<td>15.082</td>
</tr>
<tr>
<td>37</td>
<td>15.157</td>
</tr>
<tr>
<td>38</td>
<td>15.216</td>
</tr>
<tr>
<td>39</td>
<td>15.292</td>
</tr>
<tr>
<td>40</td>
<td>15.347</td>
</tr>
<tr>
<td>41</td>
<td>15.420</td>
</tr>
</tbody>
</table>

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>42</td>
<td>15.477</td>
</tr>
<tr>
<td>43</td>
<td>15.554</td>
</tr>
<tr>
<td>44</td>
<td>15.616</td>
</tr>
<tr>
<td>45</td>
<td>15.697</td>
</tr>
<tr>
<td>46</td>
<td>15.759</td>
</tr>
<tr>
<td>47</td>
<td>15.843</td>
</tr>
<tr>
<td>48</td>
<td>15.908</td>
</tr>
<tr>
<td>49</td>
<td>15.996</td>
</tr>
<tr>
<td>50</td>
<td>16.074</td>
</tr>
<tr>
<td>51</td>
<td>16.170</td>
</tr>
<tr>
<td>52</td>
<td>16.240</td>
</tr>
<tr>
<td>53</td>
<td>16.335</td>
</tr>
<tr>
<td>54</td>
<td>16.408</td>
</tr>
<tr>
<td>55</td>
<td>16.515</td>
</tr>
<tr>
<td>56</td>
<td>16.581</td>
</tr>
<tr>
<td>57</td>
<td>16.663</td>
</tr>
<tr>
<td>58</td>
<td>16.678</td>
</tr>
<tr>
<td>59</td>
<td>16.750</td>
</tr>
<tr>
<td>60</td>
<td>16.797</td>
</tr>
<tr>
<td>61</td>
<td>16.870</td>
</tr>
<tr>
<td>62</td>
<td>17.012</td>
</tr>
<tr>
<td>63</td>
<td>17.173</td>
</tr>
<tr>
<td>64</td>
<td>17.344</td>
</tr>
<tr>
<td>65</td>
<td>17.344</td>
</tr>
</tbody>
</table>
ANNEX 2

Table of coefficients (CR) calculated on the basis of Article 22(1) and (2) of Annex XIII to the Staff Regulations.

<table>
<thead>
<tr>
<th>Age at 30 April 2004</th>
<th>CR coefficient</th>
</tr>
</thead>
<tbody>
<tr>
<td>20</td>
<td>1.000</td>
</tr>
<tr>
<td>21</td>
<td>1.000</td>
</tr>
<tr>
<td>22</td>
<td>1.000</td>
</tr>
<tr>
<td>23</td>
<td>1.000</td>
</tr>
<tr>
<td>24</td>
<td>1.000</td>
</tr>
<tr>
<td>25</td>
<td>1.000</td>
</tr>
<tr>
<td>26</td>
<td>1.000</td>
</tr>
<tr>
<td>27</td>
<td>1.000</td>
</tr>
<tr>
<td>28</td>
<td>1.000</td>
</tr>
<tr>
<td>29</td>
<td>1.000</td>
</tr>
<tr>
<td>30</td>
<td>1.000</td>
</tr>
<tr>
<td>31</td>
<td>1.000</td>
</tr>
<tr>
<td>32</td>
<td>1.000</td>
</tr>
<tr>
<td>33</td>
<td>1.000</td>
</tr>
<tr>
<td>34</td>
<td>1.000</td>
</tr>
<tr>
<td>35</td>
<td>0.956</td>
</tr>
<tr>
<td>36</td>
<td>0.956</td>
</tr>
<tr>
<td>37</td>
<td>0.956</td>
</tr>
<tr>
<td>38</td>
<td>0.956</td>
</tr>
<tr>
<td>39</td>
<td>0.956</td>
</tr>
<tr>
<td>40</td>
<td>0.956</td>
</tr>
<tr>
<td>41</td>
<td>0.956</td>
</tr>
<tr>
<td>42</td>
<td>0.956</td>
</tr>
<tr>
<td>43</td>
<td>0.956</td>
</tr>
<tr>
<td>44</td>
<td>0.956</td>
</tr>
<tr>
<td>45</td>
<td>0.956</td>
</tr>
<tr>
<td>46</td>
<td>0.956</td>
</tr>
<tr>
<td>47</td>
<td>0.956</td>
</tr>
<tr>
<td>48</td>
<td>0.956</td>
</tr>
<tr>
<td>49</td>
<td>0.956</td>
</tr>
<tr>
<td>50</td>
<td>0.831</td>
</tr>
<tr>
<td>51</td>
<td>0.831</td>
</tr>
<tr>
<td>52</td>
<td>0.831</td>
</tr>
<tr>
<td>53</td>
<td>0.831</td>
</tr>
<tr>
<td>54</td>
<td>0.831</td>
</tr>
<tr>
<td>55</td>
<td>0.831</td>
</tr>
<tr>
<td>56</td>
<td>0.831</td>
</tr>
<tr>
<td>57</td>
<td>0.831</td>
</tr>
<tr>
<td>58</td>
<td>0.830</td>
</tr>
<tr>
<td>59</td>
<td>0.830</td>
</tr>
<tr>
<td>60</td>
<td>0.955</td>
</tr>
<tr>
<td>61</td>
<td>0.954</td>
</tr>
<tr>
<td>62</td>
<td>0.954</td>
</tr>
<tr>
<td>63</td>
<td>0.954</td>
</tr>
<tr>
<td>64</td>
<td>1.000</td>
</tr>
<tr>
<td>65</td>
<td>1.000</td>
</tr>
</tbody>
</table>
COMMISSION DECISION

introducing implementing provisions on absences as a result of sickness or accident

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials of the European Communities and the Conditions of Employment of other servants of the European Communities (CEOS) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68[1], and in particular Articles 59 and 60 of the Staff Regulations and Articles 16, 59, 60 and 91 of the CEOS,

Whereas:

1. In order to ensure that practice remains transparent and consistent, the implementing provisions applicable to absences as a result of sickness or accident should be combined in a single document.

2. Provision should be made for the possibility of subsequently rapidly amending the Annex to this Decision as appropriate.

3. In this respect, it seems not expedient for such amendments to be referred every time to the Commission where they remain limited in scope,

HAS DECIDED AS FOLLOWS:

Article 1

The Annex to this Decision establishing implementing provisions for absences as a result of sickness or accident is hereby approved.

Article 2

The Commission shall empower the Director-General for Personnel and Administration to make all necessary limited amendments to the Annex to this Decision.

Article 3

This Decision shall enter into force on 1 May 2004.

Done at Brussels, 28.4.2004

ANNEX

IMPLEMENTING PROVISIONS REGARDING ABSENCES ON GROUNDS OF HEALTH OR ACCIDENT

CONTENTS

ABBREVIATIONS USED
INTRODUCTION

I. GENERAL

II. APPLICATION

II. a : ABSENCE NOT EXCEEDING THREE CALENDAR DAYS

II. b : ABSENCE EXCEEDING THREE DAYS AND ALL ABSENCES COVERED BY A MEDICAL CERTIFICATE

II. c : ACCIDENT

II. d : ABSENCE ON HEALTH GROUNDS WHILE ON ANNUAL LEAVE

II. e : MEDICAL EXAMINATION

III. SPECIAL CASES

III. a : SICK LEAVE AWAY FROM THE PLACE OF EMPLOYMENT

III. b : TRAVEL OUTSIDE THE PLACE OF EMPLOYMENT FOR MEDICAL EXAMINATIONS OR MEDICAL TREATMENT

III. c : PART TIME WORKING ON MEDICAL GROUNDS

III. d : REQUIREMENT TO TAKE LEAVE ON HEALTH GROUNDS

III. e : UNAUTHORISED ABSENCE

ABBREVIATIONS USED

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td>SNE</td>
<td>Seconded national expert</td>
</tr>
<tr>
<td>GECO</td>
<td>Leave Administrator in the Directorate General / department concerned</td>
</tr>
<tr>
<td>HRM</td>
<td>Human Resources Manager for the Directorate General/department concerned</td>
</tr>
<tr>
<td>JSIS</td>
<td>Joint Sickness Insurance Scheme of the European Communities</td>
</tr>
<tr>
<td>SIC CONGES</td>
<td>Joint Information System, present in every DG/department and designed to facilitate the administrative management of leave and absences</td>
</tr>
</tbody>
</table>

INTRODUCTION

These provisions governing absences on grounds of health or accident are aimed in particular at incorporating the amendments to the Staff Regulations applicable from 1 May 2004 and include new information designed to fill any gap in the existing rules.

On questions of leave as such (including maternity leave and the various forms of special leave), please refer to the complementary Commission Decision on the implementing provisions with regard to leave.

I. GENERAL

Officials who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave.

Similarly, members of the temporary staff/auxiliary staff/contract staff (within the meaning of the Conditions of Employment of Other Servants) who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are entitled to sick leave.

SNEs who provide sufficient evidence of incapacity to perform their duties because of sickness or accident are automatically entitled to sick leave; if the sick leave exceeds one month or the period already served (only the longer of the two periods is taken into account), payment of the SNE’s daily allowances is automatically suspended; the period of sick leave may not extend beyond that of secondment; however, SNEs who are victims of a work related accidents during their period of secondment continue, until the end of the secondment, to receive their full daily allowances throughout the period of incapacity for work.

This document applies only to the staff referred to above. Interim, service or contract staff under national law and other staff employed directly or otherwise by the Commission are governed by the national rules applicable at the place of work.

II. APPLICATION

Preamble: Officials, other servants and SNEs must, as soon as possible – in practice within the
first few hours of absence and using every means at their disposal, notify or have someone notify their line manager, giving precise details as to how they can be contacted and how long they are likely to be away from work.

The official or other servant or SNE must, before the supporting documents are sent, ensure that the latter bear their personnel number and, where applicable, their status (i.e. permanent official, member of the temporary staff or SNE) and are perfectly legible and complete.

II. a : ABSENCE NOT EXCEEDING THREE CALENDAR DAYS

Basic principle

ียว A medical certificate is not required for an absence on health grounds not exceeding three (3) calendar days.

ียว However, if absences on health grounds of up to three (3) calendar days not covered by a medical certificate add up to more than twelve (12) days during the preceding 12 month period, the official or other servant or SNE concerned must produce a medical certificate for any further absence – however short on health grounds as long as the total continues to exceed 12 days over a 12 month period. Absences will automatically be regarded as unjustified from the 13th day of absence on health grounds which is not covered by a medical certificate.

ировка An absence on grounds of health which is not covered by a medical certificate may not follow a period of sick leave which is.

ировка An absence on health grounds without a medical certificate may not immediately precede or follow a period of annual or special leave if the total absence, including the annual or special leave, exceeds three calendar days. The absence will in such cases be regarded as irregular (see III.E below).

Application

鲯ו Not having a medical certificate does not dispense officials/other servants/SNEs from having to notify their line manager at the earliest opportunity (see Preamble).

II. b : ABSENCE EXCEEDING THREE DAYS AND ALL ABSENCES COVERED BY A MEDICAL CERTIFICATE

Basic principle

 обслужива Officials, other servants and SNEs who are absent on health grounds for more than three (3) calendar days must be covered by a medical certificate stating clearly that they are unfit for work.

 обслужива The medical certificate must be legible and must include the following information:

 обслужива the patient’s name and first name,

 обслужива where the patient is staying,

 обслужива the foreseeable duration of the incapacity for work, specifying the start and end dates.

油田 The absence will not be treated as sick leave until the Medical Service has been in a position to establish the validity of the medical certificate (see III.E below)

Application

油田 Officials, other servants and SNEs must send the original of the medical certificate direct to the Medical Service (i.e. not via their Directorate General/department). They must do so as soon as possible after the first day of incapacity for work and in no case later than the fifth day of absence, the postmark serving as proof. Failing this, the absence will be regarded as unjustified, unless they were prevented from sending the certificate by circumstances beyond their control (proof of which will, where necessary be required). A certificate made out after they have returned to work may be rejected if the Medical Service is not in a position to establish/verify the medical situation.
If an official, other servant or SNE is unable to transmit the certificate promptly to the Medical Service he or she must notify or have someone notify the latter and explain why.

Sending the medical certificate does not dispense permanent officials, other servants or SNEs from having to notify their immediate superior at the earliest opportunity (see Preamble).

II.c : ACCIDENT

Basic principle

In case of absence because of an accident the provisions of II.a and b. above shall apply, with any necessary changes.

Application

Officials, other servants and SNEs who are absent because of an accident must, as soon as possible, notify or have someone notify their line manager, stating how long they expect to be off work. The line manager or the Joint Sickness Insurance Scheme, Welfare Service or Medical Service, as the case may be, will then instruct them on how to proceed.

Auxiliary staff and SNEs should also contact the national social security scheme with which they are affiliated.

II.d : ABSENCE ON HEALTH GROUNDS WHILE ON ANNUAL LEAVE

Basic principle

If, while on annual leave, officials or other servants or SNEs contract an illness which would have prevented them from performing their duties had they not been on leave, they may apply for the number of days of annual leave corresponding to the period of illness to be recredited.

The Medical Service must be in a position to carry out a medical examination, if it sees fit, and must therefore be informed as soon as possible, failing which it may not be possible to have the days of leave recredited.

Application

Except in cases of force majeure (the decision as to whether force majeure is involved rests with the Medical Service), officials, other servants and SNEs must contact the Medical Service at the onset of the illness and send in a copy of the medical certificate with the following information (where necessary by telephone or fax) within 48 hours at the latest:

- surname, first name and personnel number,
- starting and end dates of the illness,
- the exact address of the place where they are staying during the illness and the means of contacting them (landline, mobile phone, fax, address, e-mail, etc.),
- exact name and address (plus the means of contacting) the doctor treating them;

They must also send in the original medical certificate as soon as possible;

Where the two conditions above are met, and providing the Medical Service declares the certificate valid, the days of leave will be recredited in “SIC CONGES” by the leave administrator (GECO) on the basis of a list provided by the Medical Service;

The Medical Service will not take into consideration, with a view to the possible recrediting of annual leave, medical certificates issued or sent at a later date, i.e. after the reported end date of the period of illness or after the period of annual leave.

II.e : MEDICAL EXAMINATION

Officials, other servants and SNEs on sick leave may at any time be required to undergo a medical examination arranged by the Commission. The purpose of such an examination is to ensure that the absence is justified and that the duration of the absence is in proportion to
the nature of the illness. This examination will normally take place at the patient's home.

The medical examinations are carried out by a doctor at the request of the Medical Service acting either on its own initiative or at the request of the official’s HRM.

Officials or other servants or SNEs required to undergo such a medical examination may be notified by letter, telephone or fax or by any other appropriate means. The notification will be sent, as appropriate, to their home address, leave address or the place where they have been authorised to spend their sick leave.

If the official is unable to travel, he or she must notify the medical officer immediately. The inability to travel must at all events be mentioned in the medical certificate or in a detailed attestation from his or her doctor certifying that they are medically unfit to travel.

If the examination cannot take place for reasons attributable to the person concerned, his or her absence will be regarded as unauthorised with effect from the date on which the examination was due to take place.

If the medical officer concludes from the examination that the person concerned is fit to work, he or she shall immediately inform the official/other servant/SNE in writing. The medical officer shall state in the document when the official/other servant/SNE is deemed to be fit to return to work. The medical officer of the Medical Service may request an additional expert medical examination.

The Medical Service shall also inform the HRM of the Directorate General/department concerned.

If the official/other servant/SNE (or a doctor acting on their behalf) considers the conclusions of the medical officer to be unjustified on medical grounds, they may within two working days submit to the Medical Service a request that the matter be referred to arbitration. Article 59 of the Staff Regulations sets out clearly the arbitration procedure. If the arbitration confirms the conclusions of the medical examination, the absence will be considered as unauthorised with effect from the date of the examination.

### III. SPECIAL CASES

#### III.a : SICK LEAVE AWAY FROM THE PLACE OF EMPLOYMENT

**Basic principle**

- Officials or other servants or SNEs on sick leave who wish to spend this leave in a place other than their place of employment, must ask permission from their appointing authority beforehand;

- The Appointing Authority shall base its decision on the opinion of the Medical Service;

- Where the Appointing Authority takes no decision or refuses to grant authorisation, the person concerned may not leave his or her place of employment, failing which the absence may be regarded as unauthorised. Failure to observe these rules may lead to disciplinary sanctions. The Appointing Authority may ask the Medical Service to request that the person concerned come for an examination to ascertain that they are present in the place of employment.

**Application**

- Wherever possible, a request to spend a period of sick leave at a place other than that of employment should be made by completing the special form entitled "Application for authorisation to be away from place of employment";

- The form must be submitted at least 10 working days before the intended departure date to the Medical Service, which will forward it, together with its opinion, to the HRM of the Directorate General/department of the person concerned. This period is necessary to allow the Medical Service to check, where appropriate, that there is no medical reason why the person concerned should not travel or, in particular, whether making the journey might aid the patient’s recovery.

- The Appointing Authority will then inform the person concerned and the Medical Service of its decision. The authorisation, if any, shall be granted for a specified period.

#### III.b : TRAVEL OUTSIDE THE PLACE OF EMPLOYMENT FOR MEDICAL EXAMINATIONS OR MEDICAL
TREATMENT

Basic principle

- Official or member of the temporary staff: three days maximum.
- Auxiliary staff or SNE: there is no provision for special leave.
- Possibly travelling time in very exceptional circumstances.

Application

- The Appointing Authority may only grant special leave on the advice of the Medical Service to officials or temporary staff for a medical consultation, examination or a specific treatment of short duration away from the place of employment during Commission working days and hours;
- Special leave may not cover an absence for illness or hospitalisation;
- Special leave may be combined with annual leave but may not be granted during annual leave and may not, therefore, lead to part of the latter being recredited;
- The Appointing Authority is not bound by the opinion of the Medical Service;
- Exceptional travelling time for a maximum of one day may be granted on the advice of the Medical Service if the distance, by rail, between the place of employment and the place in which the consultation/examination/treatment takes place is 200 km or more.

Conditions

- Officials/members of the temporary staff must, together with their application, submit an application to their Medical Service to spend time at a place other than that of employment using the form entitled “Application for authorisation to be away from place of employment”;
- The Medical Service will, after delivering its opinion, forward the application, for a decision, to the Appointing Authority of the Directorate General/department of the person concerned;
- If the Appointing Authority approves the application, it will notify the person concerned, the Medical Service and the GECO, who will grant the special leave and any travelling time specified in the decision. If the application is rejected by the Appointing Authority the GECO shall notify the official/member of the temporary staff and shall set the entire absence, if any, against the annual leave entitlement;
- Travelling time and special leave will not be confirmed until the Medical Service has been able to inform the GECO that the medical examination has effectively taken place. It is therefore for the official/member of the temporary staff to transmit to the Medical Service a medical certificate regarding the consultation or treatment.

III. c : PART TIME WORKING ON MEDICAL GROUNDS

Basic principle

- For medical reasons, in particular the gradual reintroduction into the working routine or to prevent risks to their health, officials or other servants or SNEs may be authorised to work part time under the arrangements for medical part time. In this way they will be able to work a portion of the normal day or week, depending on the Medical Service’s decision.

Application

- The maximum period of part time working on medical grounds is three months;
- In exceptional circumstances, an extension may be granted for a maximum of three months by the Medical Service on the basis of a detailed medical report.
- If the person concerned wishes to take extended annual leave – 10 working days or more during a period of part time working on medical grounds, the latter will be suspended during the annual leave;
At the end of the extended annual leave, the official/other servant/SNE may be asked to report to the Medical Service for a review of whether part time working on medical grounds is still justified;

- If the person concerned is authorised to work part time on medical grounds for a period during which he or she has already been authorised to work part time, the arrangements governing the latter shall be suspended for the duration of the part time work on medical grounds;

- Officials or other servants or SNEs working part time on medical grounds shall retain all their entitlements, in particular their entitlement to annual leave;

- Consequently, any days of annual leave taken count as whole days.

Conditions

Part-time work on medical grounds will be granted by the Medical Service either on its own initiative or following a request by the official or other servant.

If it is the official or other servant who requests part time working on medical grounds, he must ask the Medical Service for a medical examination and produce a reasoned attestation from the doctor treating him.

Part-time working on medical grounds may not commence until the Medical Service has given its approval.

Therefore:

- The request must be made in good time in order to allow the Medical Service to reach a decision (in particular where part time working on medical grounds follows a period of sick leave);

- Officials/other servants may not pre empt the Medical Service’s decision by working part time ahead of such decision.

The Medical Service’s decision shall stipulate the conditions governing part time working on medical grounds. Failing this, the person concerned may, in the case of half time work, choose whether to work mornings or afternoons, subject to the line manager’s agreement. The Medical Service’s decision shall be notified to the official/other servant/SNE and to the HRM.

In the event of a dispute the arbitration procedure shall be initiated, on the initiative of the Medical Service or the person concerned.

III.d : REQUIREMENT TO TAKE LEAVE ON HEALTH GROUNDS

Basic principle

Officials or other servants or SNEs may be ordered to take leave after examination by the Medical Service if their state of health so requires or if a member of their household is suffering from a contagious disease.

Application

- The decision to order someone to take leave shall be taken by the Appointing Authority on the basis of a reasoned opinion from the Medical Service. The decision may where appropriate specify that the person concerned should surrender his or her staff card.

- The decision on a return to work shall be taken by the Appointing Authority after consulting the Medical Service.

- Officials, other servants and SNEs may, if a member of their household is suffering from a contagious disease, be required to produce a certificate attesting non-contagiousness before resuming work. The certificate must be presented to the Medical Service, which will transmit its opinion to the Appointing Authority.

- In the event of a dispute, the arbitration procedure shall be initiated.

III.e : UNAUTHORISED ABSENCE
Basic principle

Except in case of sickness or accident, officials/other servants/SNEs may not be absent without prior permission from their line manager.

Application

As stated at point II. APPLICATION – Preamble, it is for the line manager (or a person empowered by the latter) to record without delay any absence in SIC CONGÉS and inform the HRM of the Directorate General/department in the following cases:

- If the official or a third party has not notified him on the first day of absence, giving a valid reason for the absence, or
- If the absence is not covered by a medical certificate or by an authorised request for leave, or
- If the absence on grounds of sickness or accident has been duly established in advance by the Medical Service.

The HRM, once informed by the line manager, shall check with the Medical Service if it has received a medical certificate or if it has been notified of the absence.

If the Medical Service replies in the negative the HRM shall record the absence as “unauthorised”.

Without prejudice to any disciplinary measures applicable, any duly recorded unauthorised absence shall be deducted from the annual leave of the person concerned.

If the person concerned has used up his or her annual leave a deduction corresponding to the number of days’ leave will be made from their monthly salary on the basis of the following formula:

\[
\text{number of days’ absence} \times \text{net monthly salary} / 30
\]

Footnotes


(2) If the document is sent by fax the original must follow at a later stage.

(3) Verification, if any, will take place at the address given by the official or other servant or SNE as his or her domicile.

(4) The Appointing Authority in Luxembourg will take account of the site’s special situation. In particular, officials or other servants who consult a doctor established within a radius of 65 km are not required to apply for this type of special leave or apply for prior authorisation.

(5) In Brussels the supervision sector (extension 56983/56984).

(6) As provided for by Article 59(1) of the Staff Regulations.

(7) As provided for by Article 59(1) of the Staff Regulations.
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

on measures concerning unpaid leave for temporary and contract staff of the ECSEL Joint Undertaking

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to Council Regulation 561/2014 setting up the ECSEL Joint Undertaking, and in particular Article 9 of its Statutes,

Having regard to the Staff Regulations of Officials of the European Union (‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Articles 12b, 15, of the Staff Regulations and Articles 11, 17, 52 and 91 of the CEOS,

Having regard to the amendment to the Staff Regulations (Regulation 1023/2013) that came into force on 1st January 2014,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2015) 5320 of 30 July 2015,

After consulting the Staff,

WHEREAS:

1) The new Article 52 of the CEOS concerning unpaid leave regarding temporary staff referred to in Article 2(f) of the CEOS has been introduced with effect as of 1 January 2014.

2) On 17 December 2013, the Commission informed ECSEL JU that it adopted Decision C(2013) 9054 of 16 December 2013 on measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union.

3) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 3 shall apply by analogy to ECSEL JU. By way of

derogation, a Joint Undertaking may request the Commission's agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the Joint Undertaking to submit for its agreement implementing rules which are different from those adopted by the Commission.

4) Commission Decision C(2013)9054 is not suitable to apply by analogy to temporary and contract staff of the ECSEL JU because it does not cover temporary staff referred to in Article 2(f) of the CEOS to whom specific rules on unpaid leave apply. In addition, the internal organisation of ECSEL JU does not allow putting in place the same mechanism to organise the return to work as the ones provided for in the Commission Decision.

5) It is therefore necessary to adopt a decision on unpaid leave for temporary and contract staff within ECSEL JU.

HAS DECIDED AS FOLLOWS:

Chapter I – Provisions for temporary and contract staff

Title 1 General provisions

Article 1 – Conditions for granting unpaid leave

Unpaid leave may be granted by the authority authorised to conclude contracts (‘AACC’) at the request of the temporary or contract staff concerned (‘staff member’). The AACC shall take a decision on granting unpaid leave after consulting the staff member's immediate superiors, having examined the request in detail and taken into account all relevant factors, in particular the reason for the leave, its duration and the immediate needs of the service. The staff member shall be notified of his precise obligations when the decision is taken to grant or extend unpaid leave.

Article 2 – Professional activity

1. A staff member who, during unpaid leave, envisages engaging in a professional activity or changing from the professional activity already authorised, must obtain prior permission from the AACC pursuant to Article 12b of the Staff Regulations2, and in accordance with the rules applicable within the Joint Undertaking on outside activities and assignments.

2. In accordance with these rules, such permission shall not be granted to a staff member for the purpose of his engaging in an occupational activity, whether gainful or not, which involves lobbying or advocacy vis-à-vis his Joint Undertaking and which could lead to the existence or possibility of a conflict with the legitimate interests of the Joint Undertaking.

2 Applicable to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS.
**Article 3 – Link with the Joint Undertaking**

1. During unpaid leave, the staff member shall maintain a link with the Joint Undertaking's entity in charge of human resources, for the purposes of approving a request for extending that leave or for engaging in a professional activity.

2. The staff member shall inform the Joint Undertaking of her/his contact details during her/his unpaid leave and keep this information updated at all times.

**Article 4 – Career development**

During unpaid leave, a staff member shall not be entitled to advancement to a higher step in grade and shall not be entitled to reclassification in grade.

**Title II Specific provisions for temporary staff referred to in Article 2(f) of the CEOS with a contract for an indefinite period**

**Article 5 – Duration**

1. In accordance with Article 52 of the CEOS, the duration of unpaid leave requested by a staff member shall be restricted to one year, extendable several times for one year. The total duration of unpaid leave may not exceed twelve years over a staff member’s whole career.

2. The duration of unpaid leave shall not be less than one month. However, for major family reasons, unpaid leave may be granted for a period of 15 days if there are no other possibilities of reducing working time (parental leave, family leave or part time working).

3. Other than in exceptional cases (serious illness of a close relative, election to public office, etc.), unpaid leave shall start on the 1st or 16th of the month and end on the 15th or last day of the month.

4. If the temporary staff member requests unpaid leave to serve a term in public office, that leave shall be restricted to the duration of the term of office.

**Article 6 – Vacancy of posts**

A post which is unoccupied following departure on unpaid leave for a period of six months or more shall be considered vacant from the first day of that unpaid leave.

**Article 7 – Extension**

Extension of unpaid leave must be applied for by the staff member two months before expiry of the current period and may be granted by the AACC, provided that the conditions set out in Article 5 are met.

**Article 8 – Return to work**

At the latest three months before the end of the unpaid leave, and if the staff member has not already submitted an application to return to work, the Joint Undertaking's entity in charge of human resources shall contact the staff member and request a written notification of her/his wish to extend her/his unpaid leave or to return to work, in which
case she/he should provide an up to date curriculum vitae which includes details of any professional activity engaged in and new knowledge acquired while on leave.

In order to facilitate the return to work and the identification of the appropriate post, the Joint Undertaking's entity in charge of human resources shall take the measures necessary for the staff member, on expiry of period of unpaid leave, to return to work in the Joint Undertaking in the first vacant post in his function group that corresponds to his abilities. The staff member application shall be examined as a priority before any filling of the posts. The vacant post may only be filled by another person if the staff member returning to work does not possess the abilities required for the post to be filled or if he has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest.

In order for the Joint Undertaking to assess the existence of such a conflict of interest, the staff member shall prior to his reinstatement, inform the AACC, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the AACC to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulations; such measure may not, however, prevent the reinstatement of the staff member. The assessment carried out by the AACC shall be made considering the situation of the staff member after his reinstatement.

Article 9 – Termination of contract

A staff member who has asked to return to work may refuse the first offer of a post corresponding to his function group; in the event of a second refusal, employment may be terminated by the Joint Undertaking without notice. The same procedure applies to a staff member who has reached the cumulative total of years of unpaid leave provided for in Article 5(1) or who can no longer claim the exemptions set out in Article 5(4) and who does not apply to return to work.

Article 10 – Secondment

A staff member on unpaid leave who is seconded in the interests of the service shall return to work in the Joint Undertaking. The staff member's rights to advancement in step and eligibility for reclassification shall recommence from the date on which secondment takes effect.

At the end of the secondment period, the staff member shall either:

- apply to return to work in accordance with Article 8 above;
- apply for a new period of unpaid leave, provided that the conditions for granting it are met;
- terminate his contract of employment under conditions referred to in Article 47 of the CEOS.

---

3 Applicable to temporary staff by virtue of Article 11 of the CEOS.
Title III Specific provisions for other temporary staff

Article 11 – Duration

1. In accordance with Article 17 of the CEOS, the duration of unpaid leave requested by a staff member shall not exceed one quarter of the length of time already worked by the servant or three months if the servant’s seniority is less than four years or twelve months in other cases; such leave may not exceed twelve months over the whole of his career. The period of unpaid leave may not exceed the duration of the employment contract still to run.

2. Paragraphs 2 and 3 of Article 5 shall apply by analogy.

3. If the staff member requests unpaid leave to serve a term in public office, that leave shall be restricted to the duration of the term of office and shall not exceed the duration of the employment contract still to run.

Article 12 – Extension

Extension of unpaid leave must be applied for by the staff member two months before expiry of the current period and may be granted by the AACC, provided that the conditions set out in Article 11 are met.

Article 13 – Return to work

1. At the end of unpaid leave, the staff member shall return to work in the post occupied before departure, subject to the examination by the AACC whether the staff member has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest.

2. In order for the Joint Undertaking to assess the existence of such a conflict of interest, the staff member shall, prior to returning to work, inform the AACC, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the AACC to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulations.

Article 14 – Termination of contract

Where a staff member does not take up his duties again at the end of unpaid leave, his absence shall be regarded as unjustified and the AACC shall terminate the contract pursuant to Article 47 of the CEOS.

---

4. Without prejudice to Article 5(1).
5. In case of a reorganisation, the staff member shall be reintegrated on the post which has been moved.
6. See footnote 2.
Article 15 – Secondment of temporary staff referred to in Article 2(f) of the CEOS

A staff member on unpaid leave who is seconded in the interests of the service shall return to work in the Joint Undertaking. The staff member's rights to advancement in step and eligibility for reclassification shall recommence from the date on which secondment takes effect.

At the end of the secondment period, the staff member shall either:

- apply to return to work in accordance with Article 13 above;
- apply for a new period of unpaid leave, provided that the conditions for granting it are met;
- terminate his contract of employment under conditions referred to in Article 47 of the CEOS.

Title IV Specific provisions for contract staff

Article 16 – Contract staff

Title III shall apply mutatis mutandis to all contract staff, except Article 15.

Chapter II Final Provisions

Article 17

1. The Commission's Decision C(2013)9054 of 16 December 2013 does not apply by analogy at the ECSEL Joint Undertaking.

2. This Decision shall enter into force on the day following that of its adoption.

Done at Brussels, on 19 November 2015,

[Signature]

Andrea Cuomo
Chairperson of the Governing Board
Annex 1

Implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union (temporary agents)

Article 1 — Scope

The general implementing provisions laid down by this Decision shall apply to the classification in the next higher grade (‘reclassification’) of temporary staff referred to in Article 2(f) of the CEOS (‘temporary staff’), with the exception of those in a grade higher than AD 13.

Article 2 — Annual reclassification exercise

1. A reclassification exercise shall be organised every year.
2. It shall be launched by the Administration Unit by means of a electronic communication.

Article 3 — Temporary staff eligible for reclassification

Temporary staff may be reclassified if they satisfy all of the following conditions:

– by 31 December of the year of the reclassification exercise at the latest, they have achieved the minimum seniority in grade required by Article 54(1) of the CEOS;

– at the time of the launch of the reclassification exercise pursuant to Article 2(2), they occupy a post which corresponds to one of the types of post set out in Annex I, Section A¹, or in Article 30(1) or Article 31(1) of Annex XIII² to the Staff Regulations for the grade to which they may be reclassified;

– they have demonstrated before their first reclassification after engagement the ability to work in a third language among those referred to in Article 55(1) of the Treaty on European Union³;

– they are in active employment, on parental or family leave, on leave for military service or seconded in the interests of the service on the date on which the reclassification decisions are adopted by the authority authorised to conclude contracts of employment (‘AACC’); and

– their appraisal reports have become final in application of the Agency’s general provisions for implementing Article 43 of the Staff Regulations⁴, if a report was required under the terms of those provisions. In cases where an appraisal report has not been finalised as a result of a delay for which the temporary staff cannot be held

¹ Applicable to temporary staff by virtue of Article 10 of the CEOS.
² Applicable to temporary staff by virtue of Article 1 of the Annex to the CEOS.
³ In accordance with the common rules laying down the procedure for implementing Article 45(2) of the Staff Regulations (common accord recorded by the President of the Court of Justice on 13 December 2006).
⁴ Applicable to temporary staff by virtue of Article 15(2) of the CEOS.
responsible, the temporary staff shall nevertheless take part in the reclassification procedure on the basis of other valid information replacing the staff report and may therefore be reclassified.

**Article 4 — Basis of the reclassification procedure**

1. The reclassification procedure shall be based on the consideration of the comparative merits of the temporary staff eligible for reclassification. The system used to administer the exercise shall contain the information required for this comparative examination. For the purposes of the examination, the AACC shall take into account, in particular:
   
   (a) reports on the temporary staff drawn up since their last reclassification or, failing that, since their recruitment, and in particular temporary staff reports drawn up in accordance with the Agency’s general provisions for implementing Article 43 of the Staff Regulations;
   
   (b) the use by the temporary staff in the execution of their duties of languages other than the language for which they produced evidence of thorough knowledge in accordance with Article 12(2)(e) of the CEOS; and
   
   (c) the level of responsibilities exercised by them.

2. If temporary staff eligible for reclassification have equal merit based on the three factors referred to in paragraph 1, the AACC may give subsidiary consideration to other factors.

**Article 5 — Reclassification procedure**

1. The reclassification exercise shall be launched only once the appraisal exercise organised in the same year has been finalised. The end of the appraisal exercise shall be announced by the Administration Unit by means of an electronic communication.

2. At the start of the reclassification exercise, the Administration Unit shall inform the Executive Director of the arrangements for the current exercise, giving an indication of the financial resources available for the current year.

3. Within the Joint Undertaking, the Director and the Heads of Unit shall proceed with the examination of the comparative merits of the temporary staff eligible for reclassification.

4. Following the examination referred to in paragraph 3, the Director shall hold a discussion with the Staff Committee. During this discussion the Director shall, at the request of the Staff Committee, specify the factors referred to in Article 4(2) of these general implementing provisions that were given subsidiary consideration in the case of equal merit.

5. Following the discussion referred to in paragraph 4, the Director shall draw up a list of temporary staff proposed for reclassification. This list shall fulfil the following conditions:

   a) it may not exhaust the budgetary resources available for the reclassification of temporary staff for the current exercise; and
b) it may not exceed the multiplication rates for guiding average career equivalence, implemented as described in Annex II.

6. The Director shall communicate to all the staff the list referred to in the previous paragraph and shall forward this list to the Joint Reclassification Committee referred to in Annex I.

7. Temporary staff shall have ten working days from the date of publication of this list in which to lodge a complaint with the Joint Reclassification Committee against the fact that he or she is not on the list, with supporting arguments. On receipt of the list referred to in paragraph 6, the Joint Reclassification Committee, taking into account any complaints it has received, shall compare the merits of the temporary staff eligible for reclassification and present for the attention of the AACC the list of temporary staff it recommends for reclassification. That recommendation shall fulfil the following conditions:

   a) it may not exceed the budgetary resources available for the reclassification of temporary staff for the current exercise; and

   b) it may not exceed the multiplication rates for guiding average career equivalence, implemented as described in Annex II.

At the same time as the recommendation is transmitted to the AACC, the Joint Reclassification Committee shall forward to the AACC the complaints and the discrepancies, if any, referred to in Annex III.

8. Once it has received the information referred to in paragraph 7, and has at its disposal the files of all the temporary staff eligible for reclassification, the AACC shall carry out a final comparison of the merits of the eligible temporary staff and, taking into account the budgetary resources available for the current exercise and the need to respect the multiplication rates for guiding average career equivalence, implemented as described in Annex II, shall adopt the list of temporary staff reclassified. Reclassification shall entail the classification of the temporary staff concerned to the first step of the next higher grade in the function group to which he or she belongs.

9. The list of temporary staff reclassified shall be published for the attention of all the staff, by means of electronic communication. Without prejudice to the confidentiality principle referred to in Article 4 of Annex I, each temporary staff member shall be given access to all relevant information related to his/her individual reclassification procedure.

10. Reclassifications shall take effect on 1 January of the year of the reclassification exercise. If, on that date, the temporary staff member does not have the seniority in the grade or does not occupy a post of the type required under Article 54 of the CEOS, the reclassification shall take effect on the first day of the first full month during which he or she possesses the necessary seniority or occupies a post of the required type.

11. Publication of the list of temporary staff reclassified referred to in paragraph 9 constitutes communication of the decision within the meaning of Article 25 of the Staff Regulations. The period of three months in which to lodge a complaint,

5 Applicable by analogy to temporary staff by virtue of Article 11 of the CEOS.
provided for in Article 90(2) of the Staff Regulations, starts to run on the day following that of the publication of the list.

12. The Joint Committee shall examine each reclassification exercise. To this end, all relevant information shall be made available to the Joint Committee. After each reclassification exercise, the Joint Committee shall draw up a report that may contain recommendations. This report shall be sent to the Director and the Staff Committee and made public to all the staff.

Article 6 — Final provisions

1. Annex 17 of Decision ECSEL GB 2015.35 of 13.05.2015 on reclassification of temporary staff is repealed.

2. This Decision shall take effect on the day of its signature, and shall apply as from the 2015 reclassification exercise.

---

6 Applicable by analogy to temporary staff by virtue of Article 46 of the CEOS.
ANNEX I — JOINT RECLASSIFICATION COMMITTEE

1 — Role of the Joint Reclassification Committee

1.1. In accordance with Article 5(7) of these general implementing provisions, the Joint Reclassification Committee shall compare the merits of the temporary staff eligible for reclassification on the basis of the list of temporary staff proposed for reclassification by the Director, and take into account the complaints lodged against non-inclusion on the list. It shall then issue its recommendations regarding temporary staff to be reclassified, addressed to the AACC.

2 — Composition and working methods of the Joint Reclassification Committee

2.1. The Joint Reclassification Committee shall be chaired by the Head of Administration. It shall consist of one Head of Unit and one member designated by the Staff Committee. The Chair shall be entitled to vote.

2.2. The Joint Reclassification Committee shall adopt its own rules of procedure and decide on its working methods. It may set up one or more intermediate joint working parties to carry out preparatory work. If necessary, the Joint Reclassification Committee shall adopt rules of procedure for these intermediate joint working parties and decide on their working methods.

3 — Conflict of interests

3.1. In accordance with Articles 11 and 11a of the Staff Regulations, all members of the Joint Reclassification Committee, including the Chair, shall carry out their duties and conduct themselves solely with the interests of the European Union in mind and shall not deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence.

3.2. If any member of the Joint Reclassification Committee, including the Chair, has a personal interest in a matter such as to impair his or her independence in the handling of that matter, he or she shall be replaced by the appropriate alternate member and refrain from participating in the work of the Joint Reclassification Committee.

3.3. A conflict of interests shall be any circumstance which the member of a Joint Reclassification Committee, including the Chair, who is called upon to decide on a matter must reasonably understand as being such as to be seen by third parties as a possible source of impairment of his or her independence in that matter.

4 — Confidentiality principle

The deliberations and documents of the Joint Reclassification Committee shall be confidential.
ANNEX II — AVERAGE CAREER EQUIVALENCE

1. The multiplication rates for guiding average career equivalence may not exceed those set out in Section B of Annex I to the Staff Regulations. These rates apply on a five-year average basis as from 1 January 2014.

To this end, reference shall be made to the average seniority in grade of temporary staff reclassified, calculated on the date when the reclassification takes effect. That average is calculated for each exercise on the basis of the last five reclassification exercises, which means the current and four previous exercises (hereinafter ‘the reference period’). That average shall not be less than the figure indicated in the table under point 2 below (hereinafter ‘target average’).

Where, in a given grade, the number of reclassifications over the reference period is equal to or less than three (hereinafter ‘small group’), that average may be lower. However, in that case reference shall also be made to all reclassified temporary staff within the same function group.

2. The average, indicative duration of a career, per type of post and grade, is as follows:

   a) Adviser or equivalent

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD 13</td>
<td>6.7</td>
</tr>
</tbody>
</table>

   b) Head of unit or equivalent

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD 13</td>
<td>6.7</td>
</tr>
<tr>
<td>AD 12</td>
<td>6.7</td>
</tr>
<tr>
<td>AD 11</td>
<td>4</td>
</tr>
<tr>
<td>AD 10</td>
<td>4</td>
</tr>
<tr>
<td>AD 9</td>
<td>4</td>
</tr>
</tbody>
</table>

   c) Administrator

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AD 11</td>
<td>4</td>
</tr>
<tr>
<td>AD 10</td>
<td>4</td>
</tr>
</tbody>
</table>
### d) Senior assistant

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AST 10</td>
<td>5</td>
</tr>
</tbody>
</table>

### e) Assistant

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AST 8</td>
<td>4</td>
</tr>
<tr>
<td>AST 7</td>
<td>4</td>
</tr>
<tr>
<td>AST 6</td>
<td>4</td>
</tr>
<tr>
<td>AST 5</td>
<td>4</td>
</tr>
<tr>
<td>AST 4</td>
<td>3</td>
</tr>
<tr>
<td>AST 3</td>
<td>3</td>
</tr>
<tr>
<td>AST 2</td>
<td>3</td>
</tr>
<tr>
<td>AST 1</td>
<td>3</td>
</tr>
</tbody>
</table>

### f) Secretary/Clerk

<table>
<thead>
<tr>
<th>Grade occupied</th>
<th>Average duration in the grade, in years</th>
</tr>
</thead>
<tbody>
<tr>
<td>AST/SC 5</td>
<td>8.3</td>
</tr>
<tr>
<td>AST/SC 4</td>
<td>6.7</td>
</tr>
<tr>
<td>AST/SC 3</td>
<td>5.9</td>
</tr>
<tr>
<td>AST/SC 2</td>
<td>5</td>
</tr>
</tbody>
</table>
3. Reclassification of temporary staff from AST 9 to AST 10 and from AD 12 to AD 13 who are not occupying a ‘Head of Unit or equivalent’ type of post is not covered by this Decision. However, regarding those grades, the Agency shall ensure that the multiplication rates for guiding average career equivalence do not exceed those set out in Section B of Annex I to the Staff Regulations.

ANNEX III — STAFF REPRESENTATIVES

1. For the purposes of the reclassification exercise, where appropriate, the names of the temporary staff who are on more than 50% part-time assignment as staff representatives shall be communicated to the Director by the Chair of the Staff Committee. The name of the Chair of the Staff Committee shall be proposed to the Director following a decision of the members of the Staff Committee and communicated by the member who is the most senior in the highest grade. Such communications shall take place before the discussion referred to in Article 5(4) of these general implementing provisions.

2. For the purposes of the reclassification exercise, temporary staff who are on 50% part-time assignment as staff representatives shall be considered to belong to the Unit to which they are assigned.

The Chair of the Staff Committee shall communicate to the Director the names of the temporary staff he or she wishes to propose for reclassification. The name of the Chair of the Staff Committee shall, where appropriate, be proposed to the Director following a decision of the members of the Staff Committee and communicated by the member who is the most senior in the highest grade. Such communications shall take place before the discussion referred to in Article 5(4) of these general implementing provisions.

In the event of a discrepancy between these proposals and that of the Director, the latter must inform the Joint Reclassification Committee of this discrepancy when forwarding the list of temporary staff referred to in Article 5(6) of these general implementing provisions.

3. For the purposes of the reclassification exercise, temporary staff who are on less than 50% part-time assignment as staff representatives or who have no such assignment shall be considered to belong to the Unit to which they are assigned.

---

7 In cases of assignment established in a framework agreement.
Annex 2

Implementing provisions regarding Article 87(3) of the Conditions of Employment of Other Servants of the European Union (contract agents)

Article 1 — Scope

These general implementing provisions shall apply to members of the contract staff employed under Article 3a of the CEOS (hereinafter referred to as ‘staff members’).

Article 2 — Annual reclassification exercise

A reclassification exercise shall be held each year. It shall be launched by the Administration Unit by means of the publication of an electronic communication.

Article 3 — Staff members who may be the subject of a reclassification decision

Staff members may be the subject of a reclassification decision if they satisfy all of the following conditions:

1. by 31 December of the year of the reclassification exercise at the latest, they have achieved the minimum seniority in the grade required by Article 87(3) of the CEOS,
2. they have a contract of at least three years, including renewals,
3. they are in active employment, on parental or family leave or on leave for military service on the date on which the reclassification decisions are adopted by the authority authorised to conclude contracts of employment (‘AACC’), and
4. their appraisal reports have been finalised in application of Annex 16 of decision ECSEL GB 2015.35, if a report was required under the terms of Article 2 of those provisions. In cases where an appraisal report has not been finalised as a result of a delay for which the staff member cannot be held responsible, the staff member shall nevertheless take part in the reclassification procedure on the basis of other valid information replacing the appraisal report and may therefore be the subject of a reclassification decision.

Article 4 — Basis of the reclassification procedure

1. The reclassification procedure shall be based on consideration of the comparative merits of the staff members eligible for reclassification. The system used to administer the exercise shall contain the information required for this comparative examination. For the purposes of the examination, the AACC shall take into account, in particular:

   (a) reports on the staff members drawn up since their last reclassification or, failing that, since their recruitment to the function group and grade in which they are classified at the time of the reclassification exercise, and in particular the appraisal reports drawn up in accordance with Annex 16 of decision ECSEL GB 2015.35;
(b) the use by the staff members in the execution of their duties of languages other than the language for which they produced evidence of thorough knowledge in accordance with Article 82(3)(e) of the CEOS, and

(c) the level of responsibilities exercised by them.

2. If staff members eligible for reclassification have equal merit based on the three factors referred to in paragraph 1, the AACC may give subsidiary consideration to other factors.

_Article 5 — Reclassification procedure_

1. The reclassification exercise shall be launched only once the appraisal exercise organised in the same year has been finalised. The end of the appraisal exercise shall be announced by the Administration Unit by means of an electronic communication.

2. At the start of the reclassification exercise, the Administration Unit shall inform the Executive Director of the arrangements for the current exercise, giving an indication of the financial resources available for the current year.

3. Within the Joint Undertaking, the Heads of Unit and the Director shall consult the reporting officers referred to in Annex 16 of decision ECSEL GB 2015.35.

   Following that consultation, the Director and the Head(s) of Unit, shall proceed with the examination of the comparative merits of the staff members eligible for reclassification. By way of derogation from this paragraph, the Heads of Unit who do not have any contract staff in their departments may decide not to take part in this examination.

4. Following the examination referred to in paragraph 3 above, the Director shall hold a discussion with the Staff Committee. The Director may delegate this task to the Head of Unit responsible for human resources or to another member of management. During this discussion the Director shall, at the request of the Staff Committee, specify the factors referred to in Article 4(2) of these general implementing provisions that were given subsidiary consideration in the case of equal merit.

5. Following the discussion referred to in paragraph 4 above, the Director shall draw up a list of staff members proposed for reclassification. That list may not exhaust the budgetary resources available for the reclassification of staff members for the current exercise.

6. The Director shall communicate to all the staff the list of the staff members he or she wishes to propose for reclassification and shall forward this list to the Joint Reclassification Committee referred to in Annex I.

7. The staff member shall have ten working days from the date of publication of this list in which to lodge a complaint with the Joint Reclassification Committee against the fact that he or she is not on the list, with supporting arguments. On receipt of the list referred to in paragraph 6, the Joint Reclassification Committee, taking into account any complaints it has received, shall compare the merits of the staff members eligible for reclassification and present for the attention of the AACC the list of staff members it recommends for reclassification. That recommendation may not exceed the budgetary resources available for the reclassification of staff members for the current exercise.

   At the same time as the transmission of the recommendation to the AACC, the Joint Reclassification Committee shall forward to the AACC the complaints and the discrepancies, if any, referred to in Annex II.
8. Once it has received the information referred to in paragraph 7 above, and has at its disposal the files of all the staff members eligible for reclassification, the AACC shall carry out a final comparison of the merits of the eligible staff members and, taking into account the budgetary resources available for the current exercise, shall adopt the list of staff members reclassified. The staff members concerned shall be reclassified in the first step of the next higher grade in the function group to which they belong.

9. The list of staff members reclassified shall be published by means of an electronic communication. Without prejudice to the confidentiality principle referred to in Article 4 of Annex I, each staff member shall be given access to all relevant information related to his/her individual reclassification procedure.

10. Reclassification will take effect on 1 January of the year of the reclassification exercise. If, on that date, the staff member does not have the seniority in the grade required under Article 87(3) of the CEOS, the reclassification shall take effect on the first day of the first full month during which he or she possesses the necessary seniority.

11. Publication of the list of staff members reclassified referred to in paragraph 9 shall constitute communication of the decision within the meaning of Article 25 of the Staff Regulations. The period of three months in which to lodge a complaint, provided for in Article 90(2) of the Staff Regulations, shall start to run on publication of the list.

12. The Joint Committee shall examine each reclassification exercise. To this end, all relevant information shall be made available to the Joint Committee. After each reclassification exercise, the Joint Committee shall draw up a report that may contain recommendations. This report shall be sent to the Director and the Staff Committee and made public to all the Agency’s staff.

**Article 6 — Average time spent in the grade**

For the purposes of the procedure in Article 5 of these general implementing provisions, and subject to the limits imposed by the budget, the AACC shall take account of the following table, which shows for each grade separately the desired average reclassification period.

<table>
<thead>
<tr>
<th>Function group</th>
<th>Grade</th>
<th>Average number of years spent in the grade before reclassification into the next grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>IV</td>
<td>18</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>17</td>
<td>between 6 and 10</td>
</tr>
<tr>
<td></td>
<td>16</td>
<td>between 5 and 7</td>
</tr>
<tr>
<td></td>
<td>15</td>
<td>between 4 and 6</td>
</tr>
<tr>
<td></td>
<td>14</td>
<td>between 3 and 5</td>
</tr>
<tr>
<td></td>
<td>13</td>
<td>between 3 and 5</td>
</tr>
<tr>
<td>III</td>
<td>12</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>11</td>
<td>between 6 and 10</td>
</tr>
</tbody>
</table>
### Article 7 — Final provisions


2. The present general implementing provisions shall take effect on the date of its signature and shall apply as from the 2015 reclassification exercise.

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>10</td>
<td>between 5 and 7</td>
</tr>
<tr>
<td></td>
<td>9</td>
<td>between 4 and 6</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>between 3 and 5</td>
</tr>
<tr>
<td>II</td>
<td>7</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>between 6 and 10</td>
</tr>
<tr>
<td></td>
<td>5</td>
<td>between 5 and 7</td>
</tr>
<tr>
<td></td>
<td>4</td>
<td>between 3 and 5</td>
</tr>
<tr>
<td>I</td>
<td>3</td>
<td>-</td>
</tr>
<tr>
<td></td>
<td>2</td>
<td>between 6 and 10</td>
</tr>
<tr>
<td></td>
<td>1</td>
<td>between 3 and 5</td>
</tr>
</tbody>
</table>
ANNEX I – JOINT RECLASSIFICATION COMMITTEE

1 — Role of the Joint Reclassification Committee

1.1 In accordance with Article 5(7) of these general implementing provisions, the Joint Reclassification Committee shall compare the merits of the staff members eligible for reclassification on the basis of the list of staff members proposed for reclassification by the Director, and take into account the complaints lodged against non-inclusion on the list. It shall then issue its recommendations regarding staff members to be reclassified, addressed to the AACC.

2 — Composition and working methods of the Joint Reclassification Committee

2.1. The Joint Reclassification Committee shall be chaired by the Head of Administration. It shall consist of one Head of Unit and one member designated by the Staff Committee. The Chair shall be entitled to vote.

2.2. The Joint Reclassification Committee shall adopt its own rules of procedure and decide on its working methods. It may set up one or more intermediate joint working parties to carry out preparatory work. If necessary, the Joint Reclassification Committee shall adopt rules of procedure for these intermediate joint working parties and decide on their working methods.

3 — Conflict of interests

3.1. In accordance with Articles 11 and 11a of the Staff Regulations, all members of the Joint Reclassification Committee, including the Chair, shall carry out their duties and conduct themselves solely with the interests of the European Union in mind and shall not deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence.

3.2. If any member of the Joint Reclassification Committee, including the Chair, has a personal interest in a matter such as to impair his or her independence in the handling of that matter, he or she shall be replaced by the appropriate alternate member and refrain from participating in the work of the Joint Reclassification Committee.

3.3. A conflict of interests shall be any circumstance which the member of a Joint Reclassification Committee, including the Chair, who is called upon to decide on a matter must reasonably understand as being such as to be seen by third parties as a possible source of impairment of his or her independence in that matter.

4 — Confidentiality principle

The deliberations and documents of the Joint Reclassification Committee shall be confidential.
ANNEX II – STAFF REPRESENTATIVES

1. For the purposes of the reclassification exercise, where appropriate, the names of the staff members who are on more than 50% part-time assignment\(^1\) as staff representatives shall be communicated to the Director by the Chair of the Staff Committee. The name of the Chair of the Staff Committee shall be proposed to the Director following a decision by the members of the Staff Committee and communicated by the member who is the most senior in the highest grade.

Such communications shall take place before the discussion referred to in Article 5(4) of these general implementing provisions.

2. For the purposes of the reclassification exercise, staff members who are on 50% part-time assignment\(^2\) as staff representatives shall be considered to belong to the Unit to which they are assigned.

The Chair of the Staff Committee shall communicate to the Director the names of the staff members he or she wishes to propose for reclassification. The name of the Chair of the Staff Committee, where appropriate, shall be proposed to the Director following a decision by the members of the Staff Committee and communicated by the member who is the most senior in the highest grade.

Such communications shall take place before the discussion referred to in Article 5(4) of these general implementing provisions.

In the event of a discrepancy between these proposals and that of the Director, the latter must inform the Joint Reclassification Committee of this discrepancy when forwarding the list of staff members referred to in Article 5(6) of these general implementing provisions.

3. For the purposes of the reclassification exercise, staff members who are on less than 50% part-time assignment\(^3\) as staff representatives or have no such assignment shall be considered to belong to the Unit to which they are assigned.

---

\(^1\) In cases of assignment established in a framework agreement.

\(^2\) See footnote 7.

\(^3\) See footnote 7.
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

On the adoption of the rules on Working Time

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking, and in particular Article 9 of its statutes;

Having regard to the Staff Regulations of Officials of the European Union (Staff Regulations) and the Conditions of Employment of Other Servants of the European Union (the CEOS), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Article 55 of the Staff Regulations and Articles 16 and 91 of the CEOS,

Having regard to the Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2015)9562 of 16 December 2015,

After consulting ECSEL Staff Committee,

Whereas:

1) The Staff Regulations in force since 1 January 2014 have introduced a minimum number of 40 working hours per week.

2) The Staff Regulations as amended with effect from 1 January 2014 have also introduced an explicit provision relating to flexible working time arrangements referred to below as ‘flexitime’.


3) Flexitime allows staff to vary the time at which they start and finish their assigned work. Flexitime allows eligible staff to recuperate, as a secondary option and under certain conditions, additional hours worked in the form of full days or half days. Such recuperation is always subject to prior approval by the hierarchical superior.

4) A flexible approach to working time is an essential component of modern human resources management. Staff can adjust their working hours while taking into consideration the needs of the service. Staff can more easily balance their work-life needs, in particular in situations where their expatriate status does not allow them to rely on family networks.

5) Flexitime will be made available to all ECSEL Joint Undertaking staff members and thereby shall become the default working time regime, except for those who are subject to specific working time regimes covered by the Staff Regulations or linked to other particular service requirements, owing to the nature of their duties.

6) On 18 December 2015, the Commission informed the ECSEL Joint Undertaking that it adopted Decision C(2014)2502 of 15 April 2014 on working time.

7) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 6 shall apply by analogy to the ECSEL Joint Undertaking. By way of derogation, an agency may request the Commission’s agreement to the non-application of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.

8) Commission Decision C(2014)2502 is not suitable to apply by analogy to the ECSEL Joint Undertaking staff because the provisions governing working hours are not commensurate with the JU’s specificities and needs.

9) It is therefore necessary to adopt a decision on working time within ECSEL Joint Undertaking.

10) For the sake of clarity and legal certainty, Annex 4 of Decision GB 2015.35 of 13 May 2015 on working time should be repealed and replaced by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1- Scope of application

1. This Decision shall apply to all ECSEL Joint Undertaking staff covered by the Staff Regulations or by the CEOS, regardless of function group or grade. It shall also apply to seconded national experts (SNEs).

This Decision shall not apply to ECSEL temporary staff, contract staff and SNEs working in the premises of another European Union institution. Their applicable working time arrangements shall be those which are in force in that institution.

---

Temporary staff and contract staff.
2. This Decision shall not apply to other categories of staff working at the ECSEL Joint Undertaking who are covered by working time arrangements defined and adopted by the competent authorities.

Article 2 — Working time regime

1. The normal number of working hours shall be 40 hours per week, spread out over 5 working days, from Monday to Friday. Thus, the normal working time shall be 8 hours for a day and 4 hours for a half day. This paragraph applies on a pro rata basis for persons authorised to work part-time.

2. One rest break of at least 20 minutes per working day shall be taken outside core time when the time worked during the day is 5 hours or more. This break does not count as working time.

3. The default working time regime applicable to ECSEL staff shall be flexitime, except for those staff members who are subject to specific working time regimes as referred to in paragraphs 4 and 5 below. ECSEL staff working under the flexitime regime shall also be eligible for recuperation, under the conditions laid down in Article 7(2) and Article 7(3).

4. Due to particular service requirements linked to the nature of their duties, the Executive Director may exclude certain groups of staff from applying flexitime and determine alternative working hours for these groups after consultation of the Staff Committee (SC). Such alternative hours must be consistent with the 40-hour statutory requirement and cases of exclusion or restriction must be duly justified.

5. Staff members to whom the provisions of the second paragraph of Article 44 of the Staff Regulations\(^4\) apply shall manage their working-time in agreement with their hierarchical superiors, while duly taking into account the interest of the service. All provisions of this Decision with the exception of Article 4(2), Article 7(2) and Article 7(3) shall be applicable to them.

Article 3 — Basic principles

1. Managing working time, while taking into consideration the need to ensure a proper work-life balance, requires planning. Managers shall ensure that a continued effective service is provided and that work is being performed effectively and efficiently. They shall also ensure that the overall work assigned to their staff is manageable within the context of a standard 40-hour working week, while having regard to inevitable peak periods during the year.

2. Both managers and staff shall have a key role to play in ensuring an effective application of time management. While managers can delegate the execution of administrative tasks related to the implementation of this Decision, it is their responsibility to ensure that individual staff members placed under their authority know and respect the applicable rules and that they correctly and regularly record

\(^4\) Applicable to temporary staff by virtue of Article 20(4) of the CEOS.
their working hours. In this context, it is good practice for managers to clarify in advance with their staff their expectations regarding working time and flexible working arrangements and the conditions under which excess hours can be recuperated.

3. Flexitime shall be used by staff to vary the time when they start and finish their work while keeping a sufficient degree of regularity in their schedule and thus allowing services to run effectively. It shall not be used as a way to accumulate excess hours in order to request recuperation in the form of days or half-days.

4. Managers and their staff shall try to solve any possible problem by dialogue.

*Article 4 — Daily working hours*

1. The bandwidth, i.e. the period between the earliest possible start time allowed and the latest possible finishing time\(^5\), shall be from 7:00 to 20:30, from Monday to Friday.

   Work done at the workplace\(^6\) outside the bandwidth shall be considered as working time, unless the hierarchical superior objects.

   Under exceptional circumstances, subject to prior approval by the hierarchical superior work done outside the workplace\(^7\) outside the bandwidth may also be considered as working time.

2. Core time, i.e. the period during which as a general rule staff must be present shall be:

   - on *Mondays, Tuesdays and Thursdays* from 9:30 to 12:00 and from 15:00 to 16:30,
   - on *Wednesdays and Fridays* from 9:30 to 12:00 and from 15:00 to 16:00\(^8\).

   Core time shall be binding for all staff members.

   (a) In individual cases, the hierarchical superior may adjust core time at the request of a staff member, provided that the interest of the service is upheld. The exact definition of core time for staff working part-time shall be decided by the hierarchical superior after consultation of the person concerned and taking into account the interest of the service.

   (b) Derogations to core time may be allowed to take account of specific service needs. Such derogations shall be authorised by the Executive Director, who will inform the Staff Committee. In particular, derogations may be given where necessary to ensure the operation of mechanisms designed to ensure the continuity and delivery of required services.

---

\(^5\) Subject to possible restrictions under Article 4(3).

\(^6\) By extension, the workplace includes any workplace where staff attend meetings or are sent on mission.

\(^7\) This includes, in particular, the member of staff’s private residence.

\(^8\) Stand-by allowances (under Regulation 495/77 as last amended on 11 December 2006) cannot normally be paid during the period 8:30-17:30.
(c) For authorising absences during core time to attend medical appointments, a flexible approach shall be taken. The HR Unit may be asked to give an opinion on the merits of repeated absences to attend medical appointments.

3. Flexible hours, i.e. the hours during which staff chooses the time of their arrival, rest break and departure, shall be from 7:00 to 9:30, from 12:00 to 15:00 and from 16:30 (16:00 on Wednesdays and Fridays) to 20:30.

ECSEL JU may impose restrictions on this choice in order to ensure an adequate presence of staff to meet operational requirements, subject to the agreement of the Executive Director, who will inform the Staff Committee.

Under exceptional circumstances, subject to prior approval by the hierarchical superior, and subject to presence at the office during core time, work done outside the workplace within these flexible working hours may also be considered as working time.

**Article 5 — Time Accounting**

1. **Hours recorded:** All hours worked by staff members and accepted by the superior shall be recorded. Hours worked shall be computed on a calendar monthly basis (hereinafter the ‘accounting period’). This shall be the reference for the compliance with the normal number of working hours per week under Article 2(1).

2. **Credit/debit balance:** For the purpose of calculating the credit/debit balance, the computation of daily working hours may not exceed a total of 10 hours, including for staff working part-time.

   The credit balance shall be compared to the normal working time specified in Article 2(1). Where a staff member has worked more than the normal working time, he or she is credited with the corresponding amount of time (credit), but if he or she has worked less than the normal working time, the corresponding amount shall be debited (debit).

   The balance of credits and debits shall be calculated at the end of each month. Any credit balance in excess of 20 hours at the end of the month shall be automatically reduced to 20 hours, which are carried over to the next month. A debit balance shall not exceed 16 hours. The debit balance shall be carried over to the next month.

   However, a credit balance exceeding 20 hours or debit balance exceeding 16 hours at the end of the month may exceptionally be carried over to the next month where service reasons, sick leave or force majeure prevented the person concerned from adjusting the balance appropriately.

**Article 6 — Time Accounting — Specific situations**

1. **Absences**

   Absences for annual leave, special leave and sick leave shall be accounted for on the basis of a normal working day of 8 hours in the case of a full day and 4 hours in the case of a half day. For part-time work, the number of hours accounted for shall be proportionally lower.

---

9 This is not considered as telework as regulated by Commission Decision on Telework (C(2009)10224 of 18 December 2009. The minimum teleworking shift is half a day, taken as a single block.
2. **MISSIONS**

A mission of one or more full days shall be accounted for as 8 hours per day. Where real working hours or combined working and travel hours are higher, they shall be counted up to a maximum of 10 hours per day. A mission beginning or ending during a day, with the remainder of the day being worked in the office, shall be accounted for as the combined mission and office working time, up to a maximum of 10 hours.

Real working hours shall be credited for travel at a weekend or on public holidays for missions inside the EU or outside the EU, up to a maximum of 8 hours.

Where a mission finishes with an overnight flight and a morning return to the place of work, a special half day’s compensation leave shall be granted for that day.

3. **PART-TIME**

Time-accounting provisions shall apply on a pro rata basis to persons authorised to work part-time\(^{10}\). In such cases, the normal working time specified in Article 1(2), Article 2(1), Article 2(4) and Article 3(1), the time counted for absences under Article 6(1) and the time credited or debited as described in Article 5(2) and Article 7 shall be reduced in proportion to the reduced working time.

4. **TELEWORK**

For staff authorised to telework\(^{11}\), days or half days of telework shall be counted as normal working days of 8 hours or half days of 4 hours\(^{12}\). Time-accounting provisions apply on a pro rata basis to persons authorised to work part-time.

5. **TRAINING**

Professional training approved by the hierarchical superior in line with the applicable rules shall be counted as working time.

*Article 7 — Offsetting credit or debit working hours and recuperation of credit hours*

1. As a general rule, a monthly credit balance shall be offset by subsequent shorter working time compared with the daily average of 8 hours, while a debit balance shall be offset by longer working time in the following accounting period.

2. Where the balance is in credit, staff members eligible for recuperation may request recuperation of the hours in credit. Any recuperation involving absence during core time shall be subject to prior approval by the hierarchical superior. In accordance with Article 55(4) of the Staff Regulations\(^{13}\) and Article 91(2) of the CEOS, requests for recuperation may be made according to the following rules:

---

\(^{10}\) This pro-rata shall not apply to missions.

\(^{11}\) Structural or occasional.

\(^{12}\) Including in cases where staff work outside the bandwidth during their (half-) day of telework.

\(^{13}\) Applicable by analogy to temporary staff by virtue of Article 16 of the CEOS.
For staff members in grades AD8/AST8 and lower, in function group AST/SC, contract staff and SNEs, recuperation can take the form of half a day (counted as a 4-hour debit) or a full day (8 hours). No more than 2 full days or 4 half days may be taken off as recuperation each calendar month.

For staff members in grades AD9/AST9 and higher, recuperation can only take the form of half a day (counted as a 4-hour debit). Entire days of recuperation shall not be taken. No more than 4 half days may be taken as recuperation each calendar month.

3. Upon an individual request for recuperation from a staff member, the hierarchical superior, having due regard to the basic principles as laid down in Article 3, may approve it if:
   - excess hours are justified by the staff member’s work; and
   - the interest of the service is upheld.

4. For a debit balance in excess of 16 hours at the end of the monthly accounting period, the excess hours shall be considered as unauthorised absence and shall be offset by a deduction of a corresponding number of half or full days of annual leave in the following accounting period.

Article 8 — Recording procedure and validation of monthly timesheets

1. The Executive Director shall ensure that the working hours of his staff are recorded by following the procedure as established.

2. For this purpose, working hours accounted for in accordance with the present Decision shall be recorded by the staff and validated via the Time Recording Application, ISA. All time-recording arrangements adopted by ECSEL JU shall be agreed with the Executive Director, and shall be duly communicated to the staff concerned.

3. In exceptional cases owing to the nature of their duties or their specific working conditions, ECSEL JU may determine alternative time-recording systems, subject to the agreement of the Executive Director, who will inform the Staff Committee.

4. Any time-recording systems shall be both proportionate to the objective set out in Article 2(1) and in conformity with Regulation (EC) No 45/2001 on the protection of personal data processed by Union institutions and bodies and on the free movement of such data.

5. Staff members may consult their working time account. At the beginning of each month they shall validate simultaneously in their timesheet of the preceding month:
   - their recorded working hours; and
   - their proposed debit or credit balance, if any.

6. At the beginning of each month the hierarchical superior or his or her delegate shall check, correct (if necessary and after discussion with the person concerned) and approve as soon as possible:
• the timesheets of each member of their staff, showing all the working hours recorded during the preceding month; and simultaneously
• the debit or credit balance, if any, to be carried over for the next accounting period.

**Article 9 — Final provisions**

1. The HR Unit shall be responsible for monitoring the implementation of this Decision on Working Time within ECSEL JU. The implementation of this Decision shall be subject to an analysis at least one year after its entry into force.

2. More detailed provisions and practical procedures for the application of working time provisions may be adopted by the Executive Director.

3. Annex 4 of GB decision 2015.35 of 13 May 2015 on working time is repealed.

4. The Commission’s Decision C(2014)2502 of 15 April 2014 does not apply by analogy at the ECSEL Joint Undertaking.

5. The present Decision shall enter into force on 1st October 2016.

Done at Brussels, on 19 September 2016,

For the Governing Board

[Signature]

Andrea Cuomo
Chairperson of the Governing Board
COMMISSION DECISION

of 8.1.2016

on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work
COMMISSION DECISION

of 8.1.2016

on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Union (CEOS), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Article 55a of the Staff Regulations and Annex IVa thereto, applicable to other servants pursuant to Articles 16 and 91 of the CEOS,

Whereas:

(1) The Commission Decision of 15 April 2014 on working time [C(2014) 2502], which has been in force since 1 June 2014, contains provisions which affect the rules relating to part-time work.

(2) The new provisions require amendments to the Commission Decision of 16 December 2013 on Article 55a and Annex IVa to the Staff Regulations concerning part-time work [C(2013) 9046 final], which has been in force since 1 January 2014.

(3) Greater flexibility is introduced in the part-time arrangements in keeping with the launch of the Fit@work initiative, the Commission's health and well-being programme.

(4) The assignment of duties to staff working part-time must take account of the fact that they work on a part-time basis.

(5) The allocation of any resources required to cover for absences resulting from part-time work is governed by the Commission's policy on the replacement of absent staff.

(6) The application of Article 55a(2)(d) of the Staff Regulations, which has been in force since 1 January 2014, has revealed a demand for the option of working on a 95% part-time basis with application of the pro rata calculation of remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations.

(7) More flexible application of the provisions on special part-time work (time credits) requires the introduction of a new provision allowing officials benefiting from this arrangement to use the days or half-days acquired over a period of 12 months.

(8) In the interests of clarity, examples should be given of cases where it might be duly justified, as provided for in the fourth paragraph of Article 1 of Annex IVa to the Staff Regulations, for a new period of part-time work not to start on the first day of a month.

(9) For reasons of clarity and legal certainty, Decision C(2013) 9046 final of 16 December 2013 should be replaced by this Decision.

HAS DECIDED AS FOLLOWS:

**Article 1 - General provisions**

Any official\(^2\) may seek authorisation to work part-time under the conditions laid down in Article 55(a) and in Annex IVa of the Staff Regulations.

**Article 2 – Standard part-time work**

(1) Authorisation for standard part-time work may be granted for a minimum renewable period of one month and a maximum of three years\(^3\) on a basis of 50, 60, 62.5\(^4\), 70, 75, 80, 90 or 95 % of the standard working week. Officials shall be entitled, during the period for which part-time work is authorised, to a percentage of their remuneration corresponding to the percentage of the normal time worked.

(2) Subject to the conditions referred to in the fourth indent of Article 4(5) of this Decision, the authorisation for standard part-time work may also be granted at a rate of 95 % of the normal working week without applying the pro rata calculation of the remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations.

(3) Standard part-time work applies on a weekly basis without prejudice to the rules on flexitime.

(4) The number of hours to be worked per day shall be specified in advance and may not exceed 10 hours. A break of at least 20 minutes shall be included if the working day is longer than five hours.

**Article 3 – Special part-time work (time credits)**

(1) Part-time work may also be authorised in the form of time credits. In this case officials shall be paid as if they were working half time and shall be entitled under the special arrangements to 10.5 full days or 21 half days of leave for each of the months on half-time pay. For each time credits application, an official may be authorised to be paid half-time (and obtain the corresponding credits) for one month or two months at most. In a given year, however, the number of days acquired in the form of time credits may not exceed the equivalent of 42 days.

(2) The period of validity of the (half-)days thus acquired shall be 12 months from the starting date of the part-time work approved by the official's line manager when the request for time credits was made and recorded in the computer program.

(3) The number of (half-)days acquired in this way may not exceed half of the working days in a given month.

---

\(^2\) The word ‘official’ also refers to staff covered by the CEOS, Articles 16 and 91 of which make the provisions in the Staff Regulations on part-time work applicable by analogy. Any reference to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the content clearly indicates otherwise.

\(^3\) Subject to the cases referred to in Articles 15 and 55a(2)(g) of the Staff Regulations.

\(^4\) A 25-hour working week (five five-hour days).
Article 4 – Application for part-time work

(1) Officials wishing to work part-time shall apply for authorisation in writing through their line manager(s) to the Appointing Authority or to the authority empowered to conclude contracts of employment (AHCC).  

(2) The application for part-time work shall specify the reason for the request, the type of part-time work requested and, where appropriate, the percentage referred to in Article 2(1), the period of part-time work and the number of hours per day. A specific form must be used for applications under Article 2(2) of this Decision.

(3) According to the fourth paragraph of Article 1 of Annex IVa to the Staff Regulations, any period of part-time work shall start on the first day of a month, except in duly justified cases where it immediately follows a period of maternity, parental or family leave. In the event of an application for renewal in such cases, a new period of part-time work may start on a day other than the first day of the month so that it immediately follows a preceding period of part-time work. Similarly, one period of part-time work must follow on immediately after another where the two periods would otherwise be separated only by public holidays.

(4) The line manager(s) shall issue an opinion on the request before forwarding it to the Appointing Authority.

(5) Applications for authorisation to work part-time may not be refused or postponed if the reason for the request is:

– to care for a dependent child under the age of 9;
– to care for a dependent child aged between 9 and 12, if the reduction in working time is no more than 20% of normal working time;
– to care for a dependent child until he or she reaches the age of 14 when the official is a single parent;
– in cases of serious hardship, to care for a dependent child until he or she reaches the age of 14 if the reduction in working time is no more than 5% of normal working time. In the above cases the pro rata calculation of the remuneration provided for in the first two paragraphs of Article 3 of Annex IVa to the Staff Regulations shall not apply.

A ‘serious hardship’ in this context exists where exceptional and duly justified family circumstances require the official to spend more time with the dependent child compared to normal circumstances and when the official is in a difficult financial situation.

The Directorate-General for Human Resources acting as the Appointing Authority, after an assessment by the Commission’s social service, shall in principle grant the entitlement for an initial period of six months, which shall be renewable.

The part-time work arrangement shall come to an end when the child turns 14 or the serious hardship no longer exists. Moreover, if both parents are

---

5 For the purposes of this Decision, references to the Appointing Authority shall be deemed also to refer to the AHCC.
employed in the service of the Union, only one shall be entitled to such reduction in accordance with this arrangement;

– to care for a seriously ill or handicapped spouse, relative in the ascending line, relative in the descending line, brother or sister.

(6) Where part-time working is requested under Article 55a(2)(f) and (g) of the Staff Regulations in order to take part in further training or, because the person concerned has reached the age of 58, during the last three years before retirement, authorisation may be refused or postponed only in exceptional circumstances and for overriding and clearly specified reasons relating to the interest of the service.

The Appointing Authority shall send its decision refusing or postponing part-time work to the person concerned or their line manager(s).

(7) In the case referred to in Article 55a(g) of the Staff Regulations, officials aged over 58 authorised to work half-time in preparation for retirement and who benefit from the provisions of Article 4 of Annex IVa to the Staff Regulations, shall be obliged, at the end of their period of part-time work (maximum three years), either to retire or to repay the amount exceeding 50% of the basic salary received during the period of half-time work.

**Article 5 – Implementation**

(1) The number of hours worked per day under the standard part-time work arrangement shall be reduced evenly on a weekly basis. If the person concerned makes a reasoned request to this effect, the Appointing Authority may authorise different weekly working hours, provided that this arrangement is compatible with the interests of the service. In this case the working week may not be less than three days and the working day may not be less than three hours.

(2) By way of exception, and solely in order to ensure the smooth running of the service and the performance of specific tasks, the Appointing Authority may, at the request of the service only and in agreement with the person concerned, authorise a work schedule covering two consecutive weeks, with absence alternating with presence in the office on a pro rata basis according to the part-time work arrangement chosen. In this case, the person shall not be absent from the office for an uninterrupted period of more than five consecutive working days.

(3) In the case of special part-time work arrangements (time credits), the half-days or days acquired shall be made available to the official in the computer program for up to 12 months starting as from the date set in accordance with Article 3(2) of this Decision. It is for the person concerned to submit a request to use the time credits at the appropriate time, in agreement with their line manager, taking into account the interest of the service. However, officials are obliged to use at least half a day of time credit during the first month in which they are paid on a half-time basis.

(4) The line manager of an official authorised to work part-time shall make the required adjustments to his or her workload.

(5) The authorisation granted by the Appointing Authority shall specify the type of part-time work, its start date and duration, and the daily work schedule. The working hours per day or the different weekly working hours shall apply to the entire period for which the authorisation has been granted.
(6) In the case of special time credits arrangements, the days or half-days agreed beforehand on a given date may be amended before the relevant date with the express agreement of the line manager.

(7) Part-time work shall be authorised only in the cases referred to in Article 4(5) of this Decision during an official's probationary period under Article 34 of the Staff Regulations. Part-time work shall be authorised only in the cases referred to in Article 4(5) of this Decision during an official's probationary period under Article 34 of the Staff Regulations.

(8) Sick leave shall not have the effect of cancelling or interrupting a decision authorising part-time work. The arrangements laid down in this Decision shall remain in force unless they are cancelled by the Appointing Authority under Article 8 of this Decision.

(9) The Commission's policy for the replacement of absent staff, which is aimed at establishing an effective replacement mechanism for units seriously affected by absences caused by part-time work, shall lay down the rules on allocating 'replacement appropriations'. The actual use of these appropriations is the responsibility of each Directorate-General.

Article 6 - Election or appointment to public office

Officials elected or appointed to public office and authorised by the Appointing Authority to discharge their duties on a part-time basis as provided for in Article 15 of the Staff Regulations, shall undertake standard part-time work. The Appointing Authority shall determine the percentage of standard weekly hours to be worked. The duration of the authorisation shall correspond to the official's term of office. Thus, if the term is cut short, the part-time work arrangement authorised for this purpose shall be ended.

Article 7 – Parental leave and family leave

Under Articles 42a and 42b of the Staff Regulations, an official on parental leave or on family leave who is taking such leave on a half-time basis shall undertake standard part-time work, the weekly working hours being 50% of the normal working week. In exceptional cases and in accordance with the conditions laid down in Article 5(2) of this Decision, a work schedule based on two consecutive weeks, with absence alternating with presence in the office on a pro rata basis according to the part-time work arrangement chosen, may be authorised by the Appointing Authority in agreement with the person concerned. In this case, the person shall not be absent from the office for an uninterrupted period of more than five consecutive working days.

Article 8 - Joint Committee on Part-time Work

(1) Without prejudice to the subsequent creation of a joint committee dedicated to welfare issues and working conditions under the terms of Article 4 of the Commission Decision of 15 July 2005 on improving social dialogue in the Commission through Joint Committees or any amendment thereto, the Joint Committee on Part-Time Work shall operate as described below.

(2) The Joint Committee on Part-time Work shall consist of three officials appointed by the Director-General of DG Human Resources and Security (DG HR) or, in the case of

---

6 The probationary periods of temporary and contract staff whose contracts are concluded for a duration of at least one year are covered, respectively, by Articles 14 and 84 of the CEOS.
officials of the Joint Research Centre, by the Director-General of the Centre, and two officials appointed by the relevant local section of the Staff Committee.

(3) The Committee shall be chaired by one of the officials appointed by the Director-General of DG HR or, in the case of the Joint Research Centre, by one of the officials appointed by the Director-General of the Centre. The Chair shall not have a vote.

(4) The Joint Committee shall examine any refusal to authorise part-time work or postponement of its starting date if the matter is referred to it by the person concerned. The Committee may ask the Appointing Authority to reconsider the case.

Article 9 – Withdrawal of authorisation to work part time

(1) Notwithstanding the possibility of requesting the withdrawal of the authorisation to work part time provided for in the first paragraph of Article 2 of Annex IVa to the Staff Regulations, officials may request withdrawal of the authorisation with retroactive effect due to illness. In such cases, authorisation for standard part-time working may be withdrawn with effect from the first day of illness as attested by a medical certificate. The original medical certificate shall be sent to the Medical Service as soon as possible after the first day on which the person was unfit for work and no later than the fifth calendar day of absence, as evidenced by the postmark. However, the date of withdrawal may not be before the first day of the month in which the request for withdrawal was sent to the Appointing Authority.

(2) Where officials are unable to request the withdrawal of the authorisation to work part-time themselves, their consent shall be assumed and the withdrawal made on their behalf by the leave manager (GECO) in their DG, acting on a special, detailed decision by the Appointing Authority.

(3) Where the request for withdrawal is made on the grounds of maternity leave or adoption leave, it may be granted retroactively for the full duration of that leave if the request was made before the end of the leave.

Article 10 - Leave entitlement

Annual leave entitlements for an official authorised to work part time shall be governed by the Commission Decision introducing implementing provisions on leave.

Article 11 – Monitoring implementation

DG HR shall be responsible for monitoring the implementation of this Decision within the Commission. DG HR shall in particular monitor the possible correlation between part-time working and career development in order to avoid any inequality of treatment, particularly in the context of appraisal and promotion.

---

7 Applicable by analogy to temporary and contract staff on the basis of Articles 11 and 81 of the CEOS, respectively.
8 Applicable by analogy to temporary and contract staff on the basis of Articles 16 and 91 of the CEOS, respectively.
**Article 12 – Entry into force**

The Commission Decision of 16 December 2013 on Article 55a of the Staff Regulations and Annex IVa thereto concerning part-time work [C(2013) 9046 final] is repealed.

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

Done at Brussels, 8.1.2016

*For the Commission*

*Kristalina GEORGIEVA*

*Vice-President*
ANNEX

Guide to missions and authorised travel

accompanying the

Commission Decision

on the general provisions for implementing Articles 11, 12 and 13 of Annex VII to the Staff Regulations of Officials (mission expenses) and on authorised travel
EUROPEAN COMMISSION

GUIDE TO MISSIONS
AND AUTHORISED TRAVEL

General implementing provisions (Article 13a of Annex VII to the Staff Regulations of Officials of the European Union) and decision on authorised travel
1. **INTRODUCTION**

1.1. **Scope**

This guide covers both missions, covered by a mission order, and authorised travel, for example in connection with an external event.

As part of its participation in EMAS\(^1\), the Commission encourages as far as possible the use of other communication methods, and in particular the use of videoconferencing.

Any reference in this guide to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.

A **mission (instruction to travel)** (see section 2. Missions covered by a mission order) is travel away from the place of employment solely in the interests of the service, on the instructions of a line manager or the appointing authority.

**Authorised travel (authorisation to travel)**, for example in connection with an external event (see section 3. Authorised travel), is travel on a voluntary basis, away from the Commission’s buildings, primarily in the individual interests of the person concerned but which also involves some benefit for the service. It is covered by an authorisation to travel.

1.2. **Roles\(^2\)**

Everyone involved in the process of organising a mission or authorised travel is under an obligation to act in good faith vis-à-vis the Commission.

In particular, they must take account of all the following factors when deciding on the arrangements for the mission or authorised travel:

- Optimum cost efficiency and the principle of sound financial management,
- The duty of care\(^3\),
- Absence of conflict of interest,
- Upholding the Commission’s reputation,
- Respect for the dignity of the service,
- Respect for work-life balance.

The competent authorities empowered to authorise a mission for an official or other staff member, and powers of sub-delegation, are laid down in the internal rules\(^4\) adopted by the Commission.

1. **The person concerned** is the staff member going on mission or the person carrying out the authorised travel. They may be an official, a member of the temporary staff, a member of the contract staff, a local staff member or a special adviser. The provisions of this guide apply by

---

\(^1\) EMAS, ‘The European Eco-Management and Audit Scheme’.

\(^2\) The rules set out in this section 1.2. Roles apply to missions and, by analogy, to authorised travel.

\(^3\) The duty of care implies that the administrative authority which must take a decision that affects an official ‘should take into consideration all the factors which may affect its decision and that when doing so it should take into account not only the interests of the service but also those of the official concerned’ (see in particular the Judgment of the Court in Case 321/85, ground 18, and Judgment of the Court of First Instance in Case T-100/92, ground 58).

\(^4\) Commission Decision on the Internal Rules on the implementation of the general budget of the European Union (European Commission section) for the attention of the Commission departments.
analogy to seconded national experts\(^5\), blue book trainees, and any other category specified in internal instructions by the department responsible for human resources\(^6\).

The person concerned suggests the practical arrangements for the mission or authorised travel via the draft mission order (for more information on mission orders, see section 2.1. Definition of this guide) or the draft authorisation to travel (for more information on authorisations to travel, see section 3.3.1. Organisation of travel of this guide).

2. The **line manager** of the person concerned decides whether the mission or travel is appropriate and checks that the arrangements proposed are consistent with this guide and especially the principles set out in section 1.2. Roles.

The line manager may not under any circumstances impose arrangements that are not consistent with the provisions of this guide.

However, where the regulations allow some room for manoeuvre, and if the objective conditions of the mission allow, the line manager may in particular ask the person concerned to use arrangements which provide optimum cost efficiency, even if the guide allows more expensive arrangements to be made.

On completion of the mission, the line manager countersigns the statement of expenses, taking into account the application of this guide.

3. In accordance with their charter, each **authorising officer by delegation** performs, in accordance with the Staff Regulations\(^7\), the Financial Regulation\(^8\) and its Rules of Application\(^9\), the tasks conferred upon them by the delegation granted by the Commission and in accordance with the conditions laid down in the internal rules adopted each year by the Commission.

---


\(^6\) At the Commission, DG Human Resources and Security (DG HR).


The authorising officer for commitments (in the Directorate-General\textsuperscript{10} or service to which the person going on mission is assigned)\textsuperscript{11} becomes involved when the mission or authorised travel entails a cost for the budget. It is their job to manage the resources for which they are responsible with due regard for the principles of sound financial management, legality and regularity of the transactions conducted under their responsibility.

They authorise the mission or sign the authorisation to travel based on an estimate of expenditure and take responsibility for committing this expenditure. By doing so, they confirm that the mission or the authorised travel is appropriate, approve the practical arrangements (including any requests submitted by the staff member going on mission for a derogation from the general rules applicable), and adopt a decision on the corresponding expenditure certifying that the travel itinerary of the mission or authorised travel satisfies the principles set out in section 1.2. Roles. In this connection they may ask the person concerned to make more cost-efficient arrangements, even if a more expensive option is allowed under the guide.

If necessary they may consult the Local Missions Officer (the DG’s GEMI) and/or the PMO unit in charge of missions.

On completion of the mission or authorised travel, they must sign the statement of expenses, confirming that it corresponds to the mission order or authorisation to travel; if necessary, they may at this point approve expenses that were not originally planned but which are nonetheless justified (for more information see section 2.10. Statement of mission expenses).

The Office for Administration and Payment of Individual Entitlements (PMO) has a number of responsibilities in relation to missions:

- it acts as authorising officer for payments,
- it negotiates and concludes contracts with service providers on behalf of the Commission (the Commission's officially approved travel agency, insurance, credit cards, airlines, hotels, car hire companies, etc.) and ensures that the various service providers fulfil their commitments,
- it manages the application provided (i.e. the MIPS\textsuperscript{12} tool currently in use) in line with the rules of the Guide to Missions, allowing the creation of mission orders, authorisations to travel, statements of expenses and any additions,
- the PMO provides ‘direct’ assistance to staff going on mission by taking care of the formalities required for obtaining visas, laissez-passer\textsuperscript{13} and, if required, second passports.

**In its role as authorising officer for payments:**

- The PMO is responsible for processing, checking and reimbursing mission expenses and expenses resulting from authorised travel for all Commission staff; in this capacity it checks the supporting documents and the reality of the expenses set out in the expenses claim form (however, the task of examining whether the expense is justified remains the sole responsibility of the authorising officer for commitments),

\textsuperscript{10} The Commission’s Directorates-General and Services are referred to by the term ‘DG’ in this guide.

\textsuperscript{11} The authorising officer for commitments may in some circumstances be the same person as the line manager. In that case, he or she must decide on the political and administrative appropriateness of the mission as well as on the corresponding expenditure.

\textsuperscript{12} The IT tool provided for managing missions at the Commission is called MIPS (Mission Processing System).

\textsuperscript{13} Protocol (No 7) on the Privileges and Immunities of the European Union, Council Regulation (EU) No 1417/2013 of 17 December 2013 laying down the form of the laissez-passer issued by the European Union, Article 23 of the Staff Regulations of Officials of the European Union and Articles 11 and 81 of the Conditions of Employment of Other Servants of the European Union as laid down by Regulation No 31 (EEC), 11 (EAEC).
— The PMO is available to advise authorising officers for commitments and staff going on mission before any decision is taken. However, it does not take the place of the authorising officer for commitments in assessing cost efficiency,

— The PMO reimburses expenses authorised in accordance with the rules in force. It ensures that there is a mission order or authorisation to travel and a statement of expenses, and that they are consistent with one another. It must alert the authorising officer for commitments to anything that might affect the sound management of appropriations, including the legality and regularity of the information entered in the statement of expenses, and ask him or her to confirm or correct the authorisation decision as appropriate. The PMO may contact the person going on mission directly, for example if there are obvious mistakes. In the meantime, the PMO may suspend settlement or authorisation decisions,

— The PMO will systematically bring to the attention of the authorising officer for commitments any serious or repeated failure to comply with the rules in this guide.

— If fraud is suspected, the PMO will inform the authorities specified in the relevant legal provisions.

4. **Other parties** who may have a role to play in a mission or authorised travel procedure:

When a DG appoints one of its staff to the role of **missions officer (or GEMI)** to manage missions at local level within the DG, that person becomes the PMO’s direct point of contact.

— Missions officers have a wide range of tasks, as they can be required to provide training and support for users (on rules or IT) and check or help to draft the mission order or authorisation to travel. In the MIPS IT tool they may, in exceptional and duly justified circumstances, resolve a problem or take action on behalf of the person concerned should that person be absent,

— They provide support to the line manager and the authorising officer for commitments with regard to any statutory checks required prior to the approval of the mission order or authorisation to travel and/or the statement of expenses,

— They may be contacted by the staff member for any question concerning preparations for the mission or authorised travel. Similarly, they must be informed of any questions sent to the PMO unit dealing with missions (in copy to an email, for example).

If a DG does not have a GEMI, the authorising officer for commitments will contact the PMO directly.

The Commission’s **officially approved travel agency** is selected following an invitation to tender, with the aim of simplifying the organisation of staff members’ trips and helping them take advantage of better ‘related services’. However, staff members are not obliged to use this travel agency; they may make their own reservations and buy their own tickets.

If staff members do use the approved travel agency it must:

— provide them with all the information they need for organising the trip in a way that meets the requirements of the service, as described by the person concerned, in the most cost-effective way possible,

— provide them with tickets at the best available market conditions, based on the details with which it has been provided,

— deliver tickets ordered as quickly as possible (with the exception of tickets to be collected directly from the station, for example),

— provide assistance if there is a problem (cancelled flight, delays, etc.).
Any problem with the Commission’s approved travel agency must be reported to the PMO unit responsible for missions.

2. MISSIONS COVERED BY A MISSION ORDER

2.1. Definition

A mission is travel away from the place of employment solely in the interests of the service, on the instructions of a line manager. It is normally paid for out of the budget.

Missions must be covered by a mission order. Except in duly justified exceptional circumstances, the mission order is issued before the staff member leaves on mission.

The mission order must be signed by the line manager, whose signature constitutes an instruction to the person going on mission.

The line manager may also be the authorising officer for commitments. If not, the mission order must also be signed by the authorising officer for commitments, whose signature constitutes a legal commitment within the meaning of the second paragraph of Article 85(1) of the Financial Regulation.

The following do not count as a mission:

— travel within the place of employment and its surroundings. For the purposes of this rule, DG HR may define, for each place of employment, a perimeter marking the limits of the ‘surroundings of the place of employment’.

— travel in the interests of the service between the place of employment and the main transport infrastructure (airports, stations and ports) serving that place of employment, where the purpose of the travel is not departure on mission away from the place of employment of the person travelling. DG HR may draw up a list of the infrastructure in question for each place of employment.

When such travel takes place on written instructions from the line manager, the Commission will provide the person concerned with the corresponding ticket (for the metro, tram, bus or train, etc.). Where this is not possible, the Commission will reimburse the cost of the ticket on the basis of supporting documents.

2.2. Preparation

2.2.1. General information on the organisation of missions

2.2.1.1. Initiator

Missions are organised on the initiative of the line manager of the person going on mission. To this end, the staff member concerned is asked to set out clearly all the information needed to prepare the mission and then to record it in a draft mission order as described in section 2.2.2. Mission orders orders.

2.2.1.2. Booking methods

To help them organise their missions as efficiently as possible, staff have four options:

— using applications such as the Online Booking Tool (OBT), available to Commission departments,

— contacting the Commission-approved travel agency directly,

— booking and paying for services (transport, hotel, etc.) themselves by phone, email or internet,
— booking and paying for services (transport, hotel, etc.) themselves using another travel agency; in that case, the agency fees will not be reimbursed except in exceptional circumstances, duly substantiated and approved by the authorising officer for commitments, for example if using the other travel agency would improve cost-efficiency or if the person going on mission does not have access to the approved agency.

As long as the principle of optimum cost-efficiency is observed, the person going on mission is free to choose any one of these four options (or a combination of them).

2.2.2. Mission orders

2.2.2.1. General rules

The person going on mission enters the draft mission order in the MIPS IT tool at the request of their line manager.

The draft is submitted to the line manager and the authorising officer for commitments (if they are different people) via the same tool. Mission orders must provide authorising officers for commitments with all the information they need to sign them in full knowledge of the facts. In particular, the draft must cover:

— the purpose of the mission, its location and the starting and finishing times of the meeting(s),
— the duration of the mission based on the means of transport used, and the times and itinerary for the round trip, including local transport where appropriate,
— accommodation arrangements,
— estimated costs involved based on optimum cost-efficiency.

The line manager and the authorising officer for commitments must give their express approval by means of an ad hoc signature in the MIPS tool in the following cases:

— changes to the mission for personal reasons,
— mission combined with leave,
— exceeding the maximum hotel allowance,
— any other specific expenditure requiring prior approval as provided for in section 2.7.2 ‘Miscellaneous expenses’ in this guide.

Once it has been signed, the mission order constitutes an instruction to staff to travel outside their place of employment for the requirements of the service.

Final reservations can be made and reservations confirmed for tickets, accommodation and any other financial commitment connected with the mission once the authorising officer for commitments has signed the mission order.

This means that:

— except in the case of derogations or force majeure, travel orders must be signed by the staff member going on mission, his or her immediate superior and the authorising officer for commitments if they are not the same person, before the expenditure is committed and before the staff member departs,
— subject to the same provisos, any financial commitment (such as hotel bookings that cannot be changed or tickets that cannot be refunded) entered into by the person going on mission without the approval of the authorising officer for commitments may be recovered either by offsetting\(^\text{14}\) or by means of a recovery order in accordance with the Financial Regulation;

\(^{14}\) i.e. by deduction from the person’s salary or, if they are no longer working, from their pension.
where appropriate, it may be considered to be serious misconduct for which the staff member will be held financially liable.

In the interests of administrative efficiency, the line manager and authorising officer will process the draft mission order without delay so that reservations can be confirmed, thus avoiding price fluctuations affecting the mission.

The procedures for signing mission orders are subject to the Internal Rules on the implementation of the general budget of the European Union (Commission Section) for the attention of Commission departments, which may be amended each year, and to the Commission’s Rules of Procedure (in particular Article 27 laying down rules on deputising).

Once the mission order has been signed by the line manager and (if it is not the same person) by the authorising officer for commitments, the arrangements it contains can no longer be altered for reasons of cost-efficiency.

### 2.2.2.2. Missions to be paid for by another DG

In the case of missions to be paid for by a DG other than that of the staff member concerned, mission orders should be signed by:

- the line manager of the person going on mission,
- the authorising officer for commitments in the DG for which the mission is being carried out.

### 2.2.2.3. Consultation procedure for missions outside the EU

The DG and/or institution geographically responsible for the country concerned will be notified automatically by MIPS of any mission outside the European Union where the nature of the mission so permits.

### 2.2.2.4. Changes made for personal reasons

The person going on mission may be authorised to adapt the timetable, accommodation or transport arrangements for personal reasons. In that case they must include with the mission order a comparison between the proposed costs and the costs that would have been incurred without such changes. This comparison must be drawn up at the same time, using one of the methods chosen for organising the mission and based on similar conditions (see section 2.2.1.2 Booking methods).

The person going on mission will meet directly and personally (by the means notified to him by the PMO):

- any additional cost\(^{15}\) arising from the changes made for personal reasons, including departure from and/or return to another location, if the comparison indicates an increase in the cost of the mission,
- any fees charged for carrying out the comparison, if this was done by a travel agency.

### 2.2.3. Administrative formalities

#### 2.2.3.1. Official visas, laissez-passer and passports

The PMO can provide staff going on mission with any information about official visas, laissez-passer and other formalities required to enter and stay in the countries to be visited.

In the case of official visas, staff members going on mission must put in a request via the PMO before they leave. The PMO is empowered to draw up and sign the Notes Verbales required to obtain an official visa. Where possible, the PMO will also obtain the visas. To do so, it must receive

---

\(^{15}\) Measured in relation to the overall cost of the mission (without the daily subsistence allowance).
applications and passports at least eight working days before the planned departure date (at least 15 working days if several visas are required) or longer for some destinations (see deadlines by country on the intranet ‘Missions’ page).

However, the PMO cannot provide any logistical support with obtaining a tourist visa, even if one is necessary for the mission.

The staff member’s passport must be valid for at least six months after the end of the mission (as required by most countries) and must contain a sufficient number of blank pages.

When applying for a laissez-passer, please see the rules in force (and in particular Regulation No 1417/2013, see note 13 above) which lay down the conditions for obtaining and granting laissez-passer.

The following will be reimbursed on the basis of supporting documents:

— fees for obtaining a visa for the country of destination,
— the cost of photos for the visa,
— costs associated with the issue of a second passport (where this is essential in the interests of the service and necessary for ensuring the smooth operation of the mission), including the cost of photos for this second passport.

The following will not be reimbursed:

— fees for obtaining a tourist visa if the visa is not necessary to ensure the smooth operation of the mission,
— the cost of a visa for a third party,
— costs associated with the issue of the first passport, including the cost of photos.

2.2.3.2. Credit card

The Commission provides staff going on mission with a credit card. Payments are charged to the staff member’s account. The Commission will under no circumstances be liable for payments made using this card.

The terms and conditions of issue and payment are nonetheless laid down in a contract concluded between the Commission and the issuing institution. These terms and conditions are available on the intranet, under ‘Missions’.

Because, for safety reasons, staff on mission must not carry more cash than is absolutely necessary, the Commission recommends that they use the credit card provided.

Payments using the card are not debited until a certain number of days after the end of the month in which the payment was made and are taken from the account into which the cardholder’s salary is paid and mission expenses reimbursed.

The credit card should be the preferred means of paying for mission expenses (hotels, restaurants, congresses, conferences, local transport, taxis, etc.). The staff member remains directly liable for any amounts not paid to the card issuer.

A credit limit has been placed on the use of the card. This limit may be increased temporarily on application by the card holder, stating reasons, to the head of the unit in the PMO responsible for missions. The reasons must be exclusively professional.

---

16 Agreed by contract with the credit card company.
2.2.3.3. Advances

Staff members going on mission may request an advance (via MIPS):

— if they have not been issued with a credit card provided by the Commission and the mission is going to last more than 72 hours,

or

— if they have a Commission credit card but are unable to use it (e.g.: technical constraints, registration fees for a conference, security for rentals, etc.),

or

— if the average time normally taken by the institution to reimburse the card holder is greater than the repayment period laid down for the credit card.

In no circumstances may the advance exceed 80% of the estimated total amount to be paid by the staff member as indicated in the travel order. Any sums paid by way of an advance will be deducted from the amounts reimbursed to cover mission expenses.

If an advance has been paid which proves to be greater than the actual cost of the mission, the surplus will be recovered in a single payment from a subsequent salary payment to the person carrying out the mission.

If an advance has been paid to a staff member for a mission that is subsequently cancelled, the amount of the advance will be automatically deducted from a subsequent salary payment.

2.3. Changes to a mission

2.3.1. Prior to departure

2.3.1.1. Cancellation

If the mission is cancelled, the staff member must:

— record the cancellation in MIPS,

— immediately cancel the tickets and reservations issued by the travel agency, in writing, even if they are not refundable (airport taxes can often be reclaimed),

— take the necessary steps to cancel and obtain reimbursement of tickets acquired directly by another means,

— immediately cancel hotel reservations and car-rental bookings, in writing,

— draw up a statement of expenses incurred as a result of the cancellation. This declaration is essential to allow the file to be closed in MIPS. If no costs have been incurred, the staff member concerned must draw up a statement of expenses entering the amount as “zero”.

If the cancelled ticket is not refundable, the staff member must record the fact in MIPS; proof of purchase and the conditions for cancellation are required in order to request payment by the Commission.

The Commission will reimburse the staff member irrespective of the means of reservation used in accordance with section 2.2.1.2 ‘Booking methods’.

2.3.1.2. Changes to the dates of the mission

If any changes are to be made to the dates specified in the original mission order prior to departure, a new mission order must be issued. In all other cases, and especially where the changes were not foreseen, the mission dates must be altered in the statement of expenses. The staff member is entitled
to reimbursement of all expenses resulting from this change except where it has been made for personal reasons.

2.3.2. **During the mission**

2.3.2.1. **Extension**

Missions may have to be extended as a result of unforeseen circumstances. If the duration of the mission initially indicated on the mission order is extended, leading to additional costs, this must be mentioned on the statement of expenses.

2.3.2.2. **Interruption**

A mission may be interrupted for the requirements of the service, for reasons of force majeure or for personal reasons of a serious nature, recognised as such by the authorising officer for commitments.

The interruption must be authorised in advance by the line manager or the authorising officer for commitments except in cases of extreme urgency or if the line manager or authorising officer cannot be reached. It must be substantiated by the line manager and the budgetary aspects approved by the authorising officer for commitments.

All expenses resulting from an interruption on the grounds listed above will be covered by the Commission and reimbursed as part of the mission.

The staff member sent on mission (or, if he or she is prevented from doing so by exceptional circumstances, the authorising officer for commitments) must contact the PMO to determine whether the costs incurred as a result of the interruption of the mission can be reimbursed under the Commission’s insurance policy. If such expenses are not covered by the insurance policy they will be met out of the Missions budget.

2.3.2.3. **Leave interrupted by a mission**

If a mission is organised for dates on which the person concerned has applied for leave and had it validated by their line manager, he or she may either cancel their leave or keep it and depart on mission from the place where they are on leave.

All costs resulting from this interruption of leave, including those incurred as a result of changing or cancelling leave, are reimbursed by virtue of Article 5 of Annex V to the Staff Regulations, subject to validation by the authorising officer for commitments when the mission order is signed.

In that case, the staff member will depart on mission from the place where they are on leave, and return either to the place of employment or to the place where they were on leave, as they prefer.

2.3.2.4. **Recall from leave**

Officials or other staff members on leave may be recalled to duty at their place of employment or for a mission.

In either event, all costs arising from this recall from leave (including for accompanying family) are reimbursed by virtue of Article 5 of Annex V to the Staff Regulations.

*Recall to duty at the place of employment*

If an official is recalled from leave to return to work at their place of employment, it is considered to be a mission. A mission order must be filled in (after the event if need be) containing all the costs arising as a result of this recall.
A recall from leave to the place of employment entitles the staff member to a daily subsistence allowance solely for the duration of the journey. No daily allowance is paid at the place of employment, and accommodation at the place of employment is not reimbursed unless the person’s own accommodation is temporarily unavailable, as certified by a declaration on their honour from the staff member and accepted by the authorising officer for commitments. In that case, reimbursement of accommodation costs incurred may be granted on the basis of supporting documents.

Recall from leave to go on mission

The person concerned may choose to depart on mission either from the place where they are on leave or from the place of employment; the same applies to the return.

2.4. Rules on transport

2.4.1. Departure / return

A staff member going on mission will travel to the place of the mission at the time and using the means of transport that the authorising officer for commitments considers the most appropriate to meet the needs of the mission and the interests of the service while respecting the principles listed in section 1.2. Roles. To enable the line manager and the authorising officer for commitments (if they are not the same person) to take their decision in full possession of the facts, the staff member may be required to submit possible timetables and prices for the means of transport.

However, a staff member going on mission cannot be required to leave before 8:00 or arrive after 22:00, either at the place of employment or at the place of the mission, unless the line manager adopts an ad hoc decision, giving reasons, which respects the principles set out in section 1.2. Roles. In this context, departure and arrival are taken to be the departure and arrival times of the main means of transport, that is to say take-off or landing in the case of an aircraft, and the times of departure and arrival of all other forms of transport.

The return journey must be commenced in principle:
- in the case of travel by air, not more than three and a half hours after the end of the meeting(s);
- in the case of travel by any other means of transport, not more than two hours after the end of the meeting(s).

The specific needs of a staff member going on mission who has a disability within the meaning of the Staff Regulations, or a health problem certified by the Medical Service, will be taken into account in determining the most appropriate means of transport and the terms of travel.

For missions that are organised well in advance and are unlikely to be cancelled, staff should book their tickets at the earliest opportunity in order to take advantage of the best rates available.

To reduce the risk of price increases affecting the mission, and in the interests of administrative efficiency, the line manager and, where this is a different person, the authorising officer for commitments must take a decision without delay on the draft mission order.

In theory, all departures on mission are from - and all returns to - the place of employment. Transport costs are normally reimbursed on the basis of the price of the means of transport between the place of employment and the place(s) of the mission that the authorising officer for commitments considers most appropriate in the light of the principles in section 1.2. Roles.

Where significantly justified in the interests of the mission, or for compelling service reasons, the authorising officer for commitments may, on an exceptional basis, authorise a departure from (and/or
return to) a location other than the place of employment (see in particular the third paragraph of section 2.6.1. Duration of the mission).

Authorisation may also be granted for personal reasons. In that case, section 2.2.2.4. Changes made for personal reasons of this guide will apply.

In cases where departure is from a location other than the place of employment, transport costs to and from the place of departure may be reimbursed based on the cost of the means of transport that the authorising officer for commitments considers to be most appropriate taking into account optimum cost-efficiency.

2.4.2. Transfers to/from airports, ports and stations at the place of employment

Ideally, staff should use public transport. However, transfers by taxi may be authorised by the authorising officer for commitments if they are justified in accordance with the principles in point 1.2. Roles, especially when two or more staff going on mission share the taxi. The corresponding costs are reimbursed on presentation of the supporting documents.

Use of a private vehicle may be authorised provided that it is justified under the principles set out in 1.2. Roles. In that case, reimbursement is limited to parking fees (at the airport, station or port) on presentation of supporting documents.\(^{17}\)

2.4.3. Travel at the place where the mission is to take place

As a general rule, travel at the mission location should be by public transport.

Use of a taxi is nevertheless permitted if public transport is not an appropriate alternative (on security grounds, for example). By signing the mission order or statement of expenses of the staff member concerned, the authorising officer for commitments is acknowledging this fact. The costs will be reimbursed on presentation of supporting documents.

The same rules apply to transfers to and from airports, stations and ports at the place of the mission.

2.4.4. Transport between the place of employment and the place of the mission

2.4.4.1. Travel by rail

The cost of rail travel is reimbursed on the basis of the first class rail fare for the shortest route (either by distance or in terms of time) between the place of employment and the place of the mission. The cost of seat reservations and any supplements necessary for the mission to run smoothly will also be reimbursed on presentation of the supporting documents (ticket, or booking confirmation in the case of ‘ticketless’ reservations).

Any rail ticket that cannot be refunded and/or has not been issued to a named traveller can be used by a member of staff other than the person for whom it was reserved provided that this is mentioned in the files of both staff members.

2.4.4.2. Travel by air

Staff going on mission are automatically authorised to travel by air if the outward and return journeys by rail would total at least 800 kilometres. Air travel is permitted for shorter distances when justified on grounds of cost-efficiency.

\(^{17}\) In the case of some places of employment where access to the main transport infrastructure (particularly airports) may be problematic, DG HR may adopt an ad hoc decision permitting the authorising officer for commitments to grant an allowance by kilometre. This kilometre allowance is the same as that granted when staff members use their own car to travel to the place where the mission is to take place.
Direct flights are normally preferred. However, the authorising officer for commitments may refuse to authorise a direct flight if it would represent a manifestly unreasonable expense given the arrangements for the mission. The principles set out in the section on ‘Roles’ must be duly taken into account when assessing whether an expense is manifestly unreasonable.

As a general rule, air travel may be booked:

1) in economy class or equivalent, including cases where the ticket in question cannot be exchanged or refunded, at the lowest available rates, taking into account the times of meetings and/or special features of the mission,

2) in economy class or equivalent, at the lowest available rates for flexible tickets, taking into account the times of meetings and/or special features of the mission, if there is an appreciable risk that the mission will be cancelled or amended.

3) in business class or equivalent, at the lowest available rates, taking into account the times of meetings and/or special features of the mission, if the outward or return journey includes at least one segment involving at least four hours’ continuous flying time.

By derogation to points (1) - (3), if there are overriding service-related reasons, staff travelling on mission may be authorised to travel in the same class as the Member of the Commission they are accompanying.

If boarding is denied (as a result of overbooking, for example), staff members are required to take all appropriate measures, in particular those described below under ‘Air passengers’ rights’.

Staff members covered by a signed mission order may make ticket reservations with a low-cost airline. Payment will be made directly via the internet and will be reimbursed through the statement of mission expenses on presentation of supporting documents (proof of payment, ticket, etc.).

The authorising officer for commitments authorises any additional travel cost which may be necessary for the purposes of the mission (e.g. a charge for excess baggage or a seat reservation). The staff member is reimbursed on the basis of supporting documents.

**Air passengers’ rights**

If the staff member travelling on mission is denied boarding or if his flight is cancelled or delayed, he may be covered by the rules on air passengers’ rights. Staff on mission are not allowed to accept vouchers if this would disrupt the smooth operation of the mission.

If the delay in boarding threatens the normal completion of the mission, the staff member must decide whether or not to continue the mission.

Their statement of expenses must include any nights in a hotel or any meals paid for by the airline; these will be taken into account when settling the mission expenses.

If the airline does not honour its obligations, staff must, if possible, obtain a signed acknowledgement in writing of this refusal addressed to the PMO which, with the assistance of the Commission-approved travel agency (if the ticket was purchased through the agency), will ensure that the appropriate steps are taken.

### 2.4.4.3. Travel by boat

Decisions on the choice of class and any cabin supplements will be made on a case-by-case basis, taking into account the needs of the service, the length and cost of the trip, and the principles set out in section 1.2, Roles.

---

2.4.4.4. Travel by hire car or official car

In line with the EMAS policy, staff are encouraged to use public transport. The use of a car is nevertheless authorised where, in view of the specific features of the mission, it improves the cost effectiveness of travel and/or of the mission itself, particularly where the vehicle is shared by a number of colleagues.

- Car hire

A car may be hired only with the specific prior authorisation of the authorising officer for commitments. However, authorisation may be obtained at a later date in exceptional circumstances, in particular in the case of unforeseen events or serious difficulty for the staff member in contacting the authorising officer. The category of vehicle must correspond to the requirements of the mission, taking account of the number of passengers, the distance to be travelled and the place of mission.

For missions within the European Economic Area, staff members who decide on their own initiative to hire a car must make sure that the hire charge includes only the following types of insurance cover:

- TPL (third party liability): compulsory,
- CDW (collision damage waiver): damage cover with non-waivable excess,
- TP (theft protection): cover for theft/vandalism with non-waivable excess,
- If the driver is not an EU official or other staff member, PAI (personal assistance insurance) in addition to TPL.

If the mission is taking place outside the European Economic Area, staff members must ensure that the hire charge includes additional insurance covering all damage with no excess; if not, they must take out such insurance except where it is not available. The costs associated with the additional insurance will be included in the statement of expenses.

The following rules apply, irrespective of where the mission is taking place:

- Unless it is impossible to do so, the car must be hired from a company approved by the Commission, using the code corresponding to the preferential rate granted to the Commission.
- In the event of loss or damage, the excess will be paid from the missions budget. Staff members using a hire car for mission-related travel remain fully liable for any traffic offence they commit. In particular, the Commission will not under any circumstances reimburse fines associated with the use of the vehicle.
- Where a staff member takes leave during the mission, the cost of car hire is calculated in proportion to the actual number of days of the mission.

- Travel by official car

Commission staff may use official cars to transport people and goods. The terms of use are laid down by the department responsible (for Brussels by the OIB\textsuperscript{19} and for Luxembourg by the OIL\textsuperscript{20}).

2.4.4.5. Travel by private car

In line with the EMAS policy, staff going on mission are encouraged to use public transport.

\textsuperscript{19} Office for Infrastructure and Logistics in Brussels.
\textsuperscript{20} Office for Infrastructure and Logistics in Luxembourg.
As a general rule, the use of a staff member’s own car is authorised only when the mission is taking place in special circumstances in which the use of public transport presents clear disadvantages. Explicit authorisation must be granted before the start of the mission except, as an exception, in the case of unforeseen events or where the staff member has serious difficulty in contacting the authorising officer for commitments, in which case authorisation may be granted subsequently.

In all cases in which a staff member uses their own car, reimbursement is based on a kilometre allowance of €0.28 per kilometre driven. This is a flat-rate reimbursement of travel expenses taking into account the costs generally associated with the use of the vehicle (fuel, insurance, etc.). Motorway tolls and parking fees are reimbursed separately on presentation of supporting documents.

The amount of the kilometre allowance is revised periodically by the Director of the PMO, in agreement with DG HR, and published on the Commission’s intranet site.

The distance in kilometres is calculated on the basis of the fastest route between the place of employment and the place of the mission\(^{21}\). The staff member must declare the names of any other persons going on mission who also travelled in the car.

Members of staff going on mission are required to use appropriate, safe and properly serviced vehicles, insured in accordance with the legislation of the country in which the vehicle is registered. They must comply with the relevant safety rules.

Members of staff remain fully liable for any accidents involving their vehicle and for any traffic offences. In particular, the Commission will not under any circumstances reimburse fines associated with the use of the vehicle. Reimbursement of costs for insurance cover is included in the kilometre allowance referred to above. The Commission will not accept any requests for compensation or reimbursement for damage caused to the staff member’s car or to a third party.

### 2.5. Rules on accommodation

If the length of the mission means that staff must spend one or more nights away from their place of employment, they must ensure that the accommodation they book is appropriate and is in line with the principles set out in section 1.2. Roles. Staff may choose their own accommodation, taking into account the ceilings for the reimbursement of accommodation expenses. To assist them in this task, the PMO provides a list of approved hotels where the charge per night is equal to or less than the ceiling.

If the maximum hotel allowance is exceeded, the amount will not be reimbursed unless it has been explicitly authorised by the authorising officer for commitments.

Accommodation costs will be reimbursed, on presentation of the invoice, up to the ceiling for the place of the mission or, if authorisation to exceed the ceiling has been granted by the authorising officer, the full amount of the invoice will be reimbursed.

If the accommodation expenses include breakfast, the ceiling is increased by an amount equal to 15 % of the daily subsistence allowance. The daily allowance is then reduced by the same amount.

If the staff member’s accommodation has been provided by or reimbursed by one of the EU Institutions or by another administration, organisation or third party, no reimbursement will be due\(^{22}\).

\(^{21}\) The fastest route will be calculated using appropriate software for calculating distances.

\(^{22}\) This includes the case of a staff member on mission being provided with accommodation by the Head of Representation or an administrator employed in one of DG COMM’s representations who receives the accommodation allowance introduced in 2015.
If staff going on mission share their hotel room with someone not involved in the mission they must declare the fact. In that case, the hotel bill must indicate the single occupancy rate for the room and this will be the only amount considered for reimbursement. If it does not do so, 25% of the price of the double room will be deducted from the room price.

2.6. Rules on the daily subsistence allowance

2.6.1. Duration of the mission

With due regard for the rules on transport, the authorising officer for commitments will specify the times of the outward and return journeys so as to reduce the duration of the mission to a minimum. However, the duration of the mission may nevertheless be extended:

— to obtain cheaper travel,

— to guarantee the smooth operation of the mission. Thus, if the total duration of the flights is at least ten hours (tiring journey), the authorising officer for commitments may decide to grant the staff member up to 24 hours’ rest; this rest period must be spent at the place of the mission or, where appropriate, the place of transit before the start of the mission, and may not be postponed until a later date,

— in the interests of the service, where a return to the place of employment is not justified under the principles set out in section 1.2. Roles. This could apply in the case of several meetings to be held in the same place of mission but with a certain time between them, or missions close together in time but in different places, for example,

— for personal reasons, in particular where the staff member wishes to combine the mission with leave; in that case, the mission order will indicate the period to be deducted from the duration of the mission, i.e. the difference between the actual duration and the duration that the authorising officer for commitments would have authorised if the mission had not been extended for personal reasons.

2.6.2. Calculation of the daily subsistence allowance

The daily subsistence allowance is made up as follows: 15% for breakfast, 25% for lunch, 25% for dinner, 35% for incidental expenses.

The Commission grants staff going on mission a flat-rate daily subsistence allowance (see scales for mission expenses in Annex VII to the Staff Regulations).

For missions not exceeding 24 hours, the daily subsistence allowance is calculated as follows:

- up to and including six hours: 0.2 daily allowance;
- more than six hours but not more than twelve hours: 0.5 daily allowance;
- more than 12 hours but not more than 24 hours: a full daily allowance.

For missions lasting more than 24 hours, the daily subsistence allowance is calculated pro-rata of the actual duration declared in the statement of expenses (including extra time needed for travel to stations, ports and airports).

Under Article 13(1) of Annex VII to the Staff Regulations, the daily subsistence allowance is a flat-rate sum to cover all expenses incurred by the person on mission: breakfast, two main meals and incidental expenses, including local travel.

In the interests of administrative simplification, the following rules apply:

— Breakfast is assumed to represent 15% of the daily allowance.
— Unless the invoice for accommodation states otherwise, it is assumed that breakfast is not included in the price of the room and will be covered by the daily allowance.

— Where breakfast is included in the price of the room, the daily allowance is reduced by 15% and the maximum hotel allowance is increased by a corresponding amount.

— In cases where the maximum hotel allowance (increased, where applicable, by 15% of the daily allowance) has been exceeded solely because local taxes on accommodation have been added to the price of the room, a derogation is deemed to have been granted for that amount.

— For the calculation of daily subsistence allowances, the times for the start and the end of the mission correspond to the actual departure and arrival times of the main means of transport. To allow time to get to the station, port or airport, a fixed amount of time is included in the duration of the mission before the departure and after the arrival of the main means of transport. This amount of time is one hour in the case of travel by rail, rising to two hours in the case of travel by plane or boat. To take account of special circumstances, however, the line manager may, by means of a reasoned decision (in MIPS), grant the staff member on mission more time to reach the station, airport or port.

Days spent at the place of mission between meetings, provided they are justified by the requirements of the mission itself, entitle staff to a daily subsistence allowance.

The daily allowance rates and ceilings for the reimbursement of accommodation costs are subject to periodic review.

In the case of missions to EU Member States, the Commission re-examines the amounts every two years, and takes its decision by delegated act in accordance with Articles 111 and 112 of the Staff Regulations. For missions outside the EU, the appointing authority sets and periodically adjusts the rates. Each adjustment is notified to all staff.

2.6.3. Reduction of the daily subsistence allowance

If the mission includes a meal provided by or reimbursed by one of the EU Institutions or by another administration or organisation, staff members must mention the fact in their statement of expenses. The daily subsistence allowance will be reduced by 25% for each lunch or dinner and by 15% for each breakfast provided. If the staff member is receiving only part of the daily subsistence allowance because of the length of the mission, this deduction is made from the amount he or she receives.

If, for justifiable reasons, the staff member has not attended the meal provided, the authorising officer may decide not to make the deduction.

2.6.4. Waiving the right to payment of the daily subsistence allowance

Staff members on mission may not, as part of the mission, waive their right to payment of the daily subsistence allowance.

2.7. Rules on other expenses incurred during the mission

2.7.1. Registration fees for conferences, seminars, etc.

Registration fees for a conference, seminar, etc. will be reimbursed if a mission order has been drawn up.

2.7.2. Incidental expenses

If the incidental expenses incurred by a staff member exceed 35% of the total amount paid in daily subsistence allowances for the entire mission, the staff member may obtain reimbursement of the amount exceeding the flat-rate amount. Such expenses may include:

— local travel,
— local taxes, other than those connected with accommodation,
— communications for business purposes (telephone and internet in particular),
— photocopies and other reproductions of official documents,
— access to waiting facilities,
— rental of office space or a meeting room,
— translation of official documents.

Only incidental expenses incurred in the interests of the service will be taken into consideration, and supporting documents must be provided.

Any costs in connection with currency conversions at unfavourable exchange rates and the use of the credit card in the interests of the service will be reimbursed separately on the basis of supporting documents.

Other costs incurred, which must be strictly linked to the interests of the service, will be reimbursed only if they have been approved in advance - or subsequently if necessary - by the authorising officer for commitments. These include taxi fares, where travel by taxi at the place of the mission has been authorised by the authorising officer for commitments.

### 2.8. Long-stay missions

A mission lasting 60 consecutive calendar days or more in the same place is regarded as a long-stay mission. Interruptions to a long-stay mission for the purposes of leave, training or a normal mission do not change its nature.

Several consecutive missions at the same place, each lasting less than 60 days, are considered to be a single long-stay mission if their combined duration is more than 60 days and they are covered by the same mission order.

A staff member may be sent on a normal mission while on a long-stay mission.

In the absence of a specific decision by the Commission, the rules on accommodation and the daily subsistence allowance set out below will apply.

#### 2.8.1. Accommodation

When on a long-stay mission, the staff member will try to find appropriate accommodation, with due regard for the principles set out in section 1.2. Roles, which takes account of the length of the mission. This obligation continues to apply, even if there are brief interruptions during the first 59 days of the mission.

Staff members may stay at a hotel for the first 59 days of the mission, taking care to observe the maximum hotel allowance. They must use this time to find more cost-efficient accommodation arrangements for the remainder of the mission.

Unless, under exceptional circumstances, the line manager and the authorising officer for commitments agree to an explicit derogation, as of the 60th day of the mission at the latest, staff on mission are entitled to only 50% of the maximum hotel allowance (see scales relating to mission expenses in Annex VII to the Staff Regulations), payable on presentation of supporting documents, whether they choose to move to rented accommodation or to negotiate more favourable terms with the hotel. If they choose to rent accommodation for the duration of their mission they must also provide a copy of the lease (or its renewal) and proof of payment.

Reasonable expenses in connection with the rented accommodation (such as charges for water, electricity, gas, heating oil, internal maintenance of the accommodation, insurance and any agency
fees) may be reimbursed up to the maximum hotel allowance on presentation of supporting documents.

Communication charges (telephone, internet connection, etc.) and costs for the outside maintenance of the accommodation (swimming pool, gardening services, etc.) are not reimbursable, however. The line manager and the authorising officer for commitments may nevertheless decide to reimburse the proportion of the communication charges that relates to the mission.

If the staff member’s accommodation has been provided by or reimbursed by one of the EU Institutions or by another administration or organisation, no reimbursement will be due.

2.8.2. Daily subsistence allowance

Unless the line manager and the authorising officer for commitments agree to an explicit derogation, and by way of an exception, the daily subsistence allowance will be reduced in stages. From the 60th day of the mission until the 180th day of the mission in the same place, the daily subsistence allowance is reduced by 25 %. From the 181st day to the 365th day of the mission, the allowance is reduced by 50 %. After 365 consecutive days of mission in the same place, staff members are entitled to 25 % of the normal daily allowance (75 % reduction of the allowance).

If a staff member on a long-stay mission takes leave during the mission, he or she must declare it and will not receive the daily subsistence allowance for the duration of the leave.

2.9. Expenses paid by organisers; accommodation and meals provided by others

If all or part of the expenses connected with a mission are to be met by outside organisers, the authorising officer by delegation must check in advance that there are no potential conflicts of interest and confirm the fact when drawing up the mission order.

If no conflict of interest has been identified and the mission order has been signed by the line manager, the question of conflict of interest may only be examined by investigating authorities, in exceptional circumstances.

If meals, accommodation and/or subsistence expenses are provided by an EU Institution or another administration or organisation, staff members must declare the fact in their draft mission order and without fail in their statement of expenses. A corresponding deduction will be made.

In compliance with the relevant ethical rules, any fees or other payments received from other bodies, including any subsistence allowance, must also be declared in the draft mission order and/or statement of expenses and will be deducted from the balance for the mission (see also section 4.2. GIFTS OR PAYMENTS OFFERED TO STAFF).

2.10. Statement of mission expenses

2.10.1. General rules

On their return from mission, staff members must draw up a statement of mission expenses and enter it in the MIPS tool, together with the relevant supporting documents, without delay and in any case within three months of the date of their return. If they are late the PMO will send them reminders.

Statements of expenses should be completed carefully and correctly. The actual routes and departure and arrival times of the transport used must be indicated. Staff members must also declare if they have attended a meal or stayed in accommodation provided by or reimbursed by one of the EU Institutions or by another administration or organisation.

This declaration will be signed by the line manager to whom authority has been delegated and, where this is not the same person, by the authorising officer for commitments.
If the staff member on mission does not provide supporting documents, or provides supporting documents that are incomplete or incorrect, processing of the reimbursement of expenses will be suspended until the PMO receives additional, complete and correct documents in support of the statement of expenses; this must be done within three months of the date on which it was submitted. At the end of three months, the PMO will commence recovery of any advance payment or agency fees.

Costs incurred during the mission in a currency other than the euro will be reimbursed at the monthly accounting exchange rate for the euro (InforEuro)\(^{23}\) in force on the first day of the mission. Conversion will be based on the currency in which the payment was made; the costs of a double conversion will not be met.

### 2.10.2. Supporting documents to be attached to the statement of expenses

The supporting documents to be attached are:

- for all expenses, where the staff member pays the costs in advance, the invoice, the receipt, the ticket or the booking confirmation indicating the price,
- for accommodation, the invoice in the name of the staff member on mission, specifying the price per night and currency of payment (where appropriate, stating specifically that the price includes breakfast),
- in the case of a mission combined with leave or involving departure from or return to somewhere other than the place of employment, a comparison with the mission as it would have been without the changes made for personal reasons,
- in the case of a mission paid for by the organisers, the letter of invitation and supporting documents relating to the expenses and daily allowances paid by the organiser, and a declaration certifying the absence of a conflict of interest if the mission was originally entered as a normal mission,
- certificate from the medical service entitling the holder to benefit from specific conditions relating to the organisation of the mission on health grounds.

Any exceptional circumstances leading to costs that were not covered by the mission order must be explained in the statement of expenses to enable the authorising officer to decide whether they are justified and, if appropriate, authorise them \textit{ex post}.

\(^{23}\) Produced by the Commission’s Accounting Officer and published by DG BUDG at the end of the last working day of the month (at: \url{http://ec.europa.eu/budget/contracts_grants/info_contracts/inforeuro/inforeuro_en.cfm}, and entered into ABAC).
3. AUTHORISED TRAVEL

3.1. General rules

Authorised travel, for example in connection with an external event, is travel on a voluntary basis, away from the Commission’s buildings, primarily in the individual interests of the person concerned but which also involves some benefit for the service. It is covered by an authorisation to travel.

The application for authorisation to travel must be based on:

- a framework decision adopted by the Commission and must take the form of a reply to a call for an expression of interest,
  or
- a personal initiative by the official or other staff member.

In any event, authorised travel requires the consent of the person concerned and may under no circumstances be imposed by the line manager.

In addition, authorisation to travel must never lead to discrimination between colleagues. If a group of colleagues are taking part in the same event, it is not permitted, as a matter of principle, to issue a mission order for some and an authorisation to travel for others, as all colleagues must be treated equally. However, if the colleagues are not all in the same situation as regards the proposed travel, the line manager may decide to treat them differently; a detailed explanation of the reasons, based on the interests of the service, must be provided. The reasons must never be based on budgetary considerations.

Authorisation to travel may cover, among other things, programmes under an ad hoc Commission decision (see section 3.2. Programmes covered by an ad hoc Commission decision) or participation in an external event at which the Commission does not wish to be officially represented (see section 3.3. Participation in other external events).

Depending on the extent to which the event may be considered to be in the interests of the service, the institution may: not finance the authorised travel at all, finance it in part, or finance it in full (financing may include transport costs, attendance fees for an outside event, and/or daily subsistence allowances). Authorisation to travel may, if necessary, entail a cost for the budget.

The signature of the authorising officer for commitments (if this role is not performed by the line manager of the person concerned) is required only if there is a cost for the budget.

Authorisations to travel are managed in MIPS.

The following may not be covered by an authorisation to travel because they fall automatically within the scope of a mission: any travel required in the interests of the service, irrespective of any personal interest in the trip on the part of the person concerned; any travel imposed on the person concerned by his or her line manager in the interests of the service.

3.2. Programmes covered by an ad hoc Commission decision

Authorisation to travel may be granted in connection with programmes adopted by the Commission, such as Back to School, EU Fellowships or language courses. This list is not exhaustive and DG HR may decide that other types of programme are admissible and adopt the rules that will apply.

The rules on the reimbursement of expenses for authorised travel in connection with such programmes are laid down in the decision setting up the programme. They may not be more favourable than the rules for mission orders.
In the absence of specific rules, the rules referred to in section 3.3. Participation in other external events below will apply by analogy.

Anyone wishing to apply for authorisation to travel is reminded of their obligations as regards declarations under the rules on ethics. More information can be found on the intranet.

### 3.3. Participation in other external events

Any member of staff may request authorisation to travel to take part in an external event (for example, to speak at or attend a conference). Such authorisation may be granted where the Commission has no particular interest in being officially represented but feels that it has no reason to oppose the presence of a member of its staff, and that there is a general interest for the service (training for the colleague, visibility of the Commission in scientific forums, image, etc.).

As long as the relevant ethical rules are observed, the transport and/or accommodation costs of the person undertaking the authorised travel may be met by the organiser of the conference.

#### 3.3.1. Organisation of travel

Anyone wishing to travel in connection with an outside event must submit an authorisation request in MIPS. This application clearly sets out all the preparatory details for the trip:

- the purpose of the travel, including the place and starting and finishing times of meetings, activities, etc.,
- the interest for the person concerned,
- the interest for the service,
- the duration of the trip based on the means of transport used, and the times and itinerary for the round trip, including local transport where appropriate,
- accommodation arrangements,
- estimated costs involved and who is to meet them (the Commission, the person going on the authorised trip, a third party),
- changes made for personal reasons (trip combined with leave or involving departure from or return to somewhere other than the place of employment, etc.).

The authorisation request must provide the line manager with all the details they need to take an informed decision. For the practical organisation of authorised travel, the same rules apply as for missions.

#### 3.3.2. Administrative arrangements

If they wish, staff undertaking authorised travel may request assistance from the PMO with regard to laissez-passer, second passports or official visas. They may not obtain an advance, however.

#### 3.3.3. Rules on transport

Whether the cost is to be met by the Commission, the person going on the authorised trip or a third party, the most appropriate means of transport for achieving the purposes of the authorised travel and corresponding to the interests of the service must be used, with due regard for the principles set out in section 1.2. Roles. The general rule is that staff members undertaking authorised travel for an external event must present the same image to the outside world as if they were on mission.

When the travel expenses are to be met by the Commission, the rules applicable to missions apply.

When the travel expenses are to be met by the person going on the trip or a third party, the staff member must ensure that as far as possible the same rules are followed and must keep in mind the dignity of his or her office.
When the travel expenses are to be met by a third party, the staff member must inform the third party in writing of any detour for private reasons and must offer to pay the additional costs incurred.

### 3.3.4. Rules on accommodation

If the authorisation to travel provides for the reimbursement of accommodation costs, the same principles apply *mutatis mutandis* as in section 2.5. Rules on accommodation.

When the accommodation expenses are to be met by a third party, the staff member must inform the third party in writing of any prolongation of their stay for private reasons and must offer to pay the additional costs incurred. They must also inform the third party if they propose to share their room with one or more persons not involved in the authorised travel and must offer to pay the additional costs.

### 3.3.5. Rules on the daily subsistence allowance

If the authorisation to travel provides for the payment of a daily subsistence allowance, the rules applicable to missions apply.

If the authorisation to travel does not provide for the payment of a daily subsistence allowance by the Commission, but does allow the reimbursement by a third party of the corresponding expenses, the staff member will ensure that such reimbursements cannot be perceived as incompatible with the dignity of his or her office. The same applies to invitations.

Staff undertaking authorised travel may choose to waive the payment of a daily subsistence allowance.

### 3.3.6. Rules on other expenses incurred during the authorised travel

If the authorisation to travel provides for the reimbursement of other expenses, the same principles apply *mutatis mutandis* as in section 2.7. Rules on other expenses incurred during the mission.

### 3.4. Forms and budgetary rules

#### 3.4.1. Authorisation to travel

**3.4.1.1. Request for authorisation to travel**

The authorisation to travel must be signed by the line manager and, if the travel involves a cost for the budget, by the authorising officer for commitments (if this is not the same person as the line manager).

The request for authorisation to travel must be submitted via the MIPS tool by the person wishing to travel and must contain the information set out in section 3.3. Participation in other external events. In particular, it must specify, for each of the following, whether the staff member is requesting reimbursement from the Commission, and, if not, who will meet the corresponding cost:

- transport,
- local travel,
- accommodation,
- breakfasts and other meals,
- remuneration from an outside activity within the meaning of Article 12b of the Staff Regulations,
- other expenses.

The request for authorisation to travel must provide the line manager and, where necessary, the authorising officer for commitments, with all the details they require to assess the personal interest
and the interest for the service, as well as any risk of conflict of interest in the case of expenses paid by third parties.

Once the authorisation has been signed by the staff member’s line manager and, if necessary, by the authorising officer, the staff member is formally authorised to travel and incur expenses within the limits set out in the authorisation.

The final reservation of tickets, accommodation and any other financial commitment connected with the trip is therefore made after the authorisation has been signed.

The rules applicable to mission orders apply *mutatis mutandis* to travel authorisations.

### 3.4.2. Statement of expenses (if applicable)

In the absence of an ad hoc decision by the Commission (see section 3.2. Programmes covered by an ad hoc Commission decision), the rules on statements of mission expenses apply *mutatis mutandis* to statements of expenses for authorised travel.

In the case of travel without expenses, the person concerned must provide proof that the travel took place (attendance certificate).

If the authorisation to travel was approved without expenses and the line manager and authorising officer for commitments ultimately wish to cover the cost of reimbursing certain expenses incurred by the person concerned, the authorisation to travel must be cancelled. A new authorisation to travel with expenses must be entered and approved by the persons concerned.
4. Horizontal provisions

Horizontal provisions apply by analogy to authorised travel, including in the matter of insurance.

4.1. Medical aspects

4.1.1. Ill health during a mission

If, for reasons of ill health, a staff member on mission is unable to carry out their mission or their authorised travel, is obliged to extend it or is unable to return to their place of employment, Article 59 of the Staff Regulation and the internal rules on absences and leave apply. Article 59 of the Staff Regulations reads as follows:

‘The official concerned shall notify his institution of his incapacity as soon as possible and at the same time state his current address. He shall produce a medical certificate if he is absent for more than three days. This certificate must be sent on the fifth day of absence at the latest, as evidenced by the date as postmarked. Failing this, and unless failure to send the certificate is due to reasons beyond his control, the official's absence shall be considered as unauthorised.’ »

A staff member who is on sick leave during a mission will continue to receive the daily subsistence allowance for the planned duration of the mission. Any extension will be covered by the mission insurance (reimbursable real costs on the basis of supporting documents up to the amount of the daily subsistence allowance). In the event of hospitalisation during a mission, daily mission allowances will no longer be paid; however, the hospitalisation costs will be reimbursed under the Joint Sickness Insurance Scheme.

4.1.2. Vaccinations

Officials and other staff travelling frequently on mission are advised to make sure that their vaccination certificates are up to date before departure. The cost of the vaccination and the medical consultation will be reimbursed at the rate of 100% on presentation of supporting documents. These expenses must be entered on the statement of mission expenses (under miscellaneous).

Staff going on mission to whom particular circumstances apply (health problems, pregnancy, etc.) must see a doctor before they leave to make sure that they can have vaccinations or prophylactic treatment, for instance against malaria.

4.2. Gifts or payments offered to staff

The rules on ethics are published and regularly updated on My IntraComm.

4.3. Security

Staff members on mission must ensure their own safety and that of any personal effects and money they are carrying.

As part of its duty of care, the Commission takes appropriate steps to ensure the safety of its staff on mission.

In the case of high-risk destinations, staff members automatically receive travel advice following the submission in MIPS of their mission orders or requests for authorisation to travel, informing them of security constraints in the countries they will be visiting; it is also a good idea to contact the Delegation in the country in question and follow their advice.
4.4. Additional travel insurance

Staff members on mission are covered by travel insurance taken out by the Commission. Details are available on the intranet, under ‘Missions’.
ECSEL JOINT UNDERTAKING POLICY ON PROTECTING THE DIGNITY OF THE PERSON AND PREVENTING PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

1. **INTRODUCTION**

As an employer and to protect its staff, ECSEL JU must guarantee respect for the dignity of women and men at the workplace. It has committed itself wholeheartedly to preventing such harassment and to condemning such behaviour. The Staff Regulations explicitly condemn psychological and sexual harassment (Article 12a). It is important to identify and put a stop to such situations as they always have a serious impact and cause grave distress.

In fact, psychological harassment and sexual harassment fall within the broader issue of violence in the workplace and are a serious problem in the working environment. They require greater attention as well as proactive measures to stamp them out. Conditioned by a range of socio-economic, organisational and cultural factors, violence of different forms in the workplace is part of the reality of working life and of the professional environment. Awareness has developed of the potential scale of the human, economic and social costs of violence at work. Data collected in a number of Member States confirm just how widespread this problem is.

In this general context, all staff working for ECSEL JU must refrain from any form of psychological or sexual harassment. Management (at both middle and senior level) play a key role. As managers, it is their job to cultivate a working environment that is not conducive to psychological harassment and sexual harassment, or at least one in which they can be dealt with as swiftly as possible if they arise.

The purpose of this document is to set up a policy on the prevention of psychological harassment and sexual harassment, to take account of the provisions in the Staff Regulations (Article 12a).

2. **DESCRIPTION**

Psychological harassment and sexual harassment stem from different issues but have certain similarities. In some cases, moreover, these two forms of harassment may be closely linked.

Offensive conduct of this type often stems from abuse of power or maliciousness, and can be perpetrated by both individuals and groups. Harassment, be it psychological or sexual, may come from colleagues on an equal footing, as well as superiors and subordinates.

2.1. **Psychological harassment**

Under the Staff Regulations psychological harassment means any improper conduct that takes place over a period, is repetitive or systematic and involves physical behaviour, spoken or written language, gestures or other acts that are intentional and that may undermine the personality, dignity or physical or psychological integrity of any person.

Psychological harassment can manifest itself in various forms, in particular by:

---

1. Applicable to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS respectively.
2. The European Foundation for the Improvement of Living and Working Conditions defines violence as “incidents where persons are abused, threatened or assaulted in circumstances related to their work, involving an explicit or implicit challenge to their safety, well-being and health”.
3. See footnote 3.
4. This is the case where sexual harassment translates into psychological harassment, for instance after rejection of a request of a sexual nature.
5. See point 2.4 (in particular the second paragraph) for a definition of the concept of the victim.
offensive or degrading comments, in particular in public, bullying, antagonism, pressure, offensive behaviour, even refusal to communicate;

- insults relating to someone’s personal or professional competence;
- insulting or threatening remarks, both oral and written;
- belittling someone’s contributions and achievements;
- being isolated, set apart, excluded, rejected, ignored, disparaged or humiliated by their colleagues;
- impairing their social relations;
- setting unrealistic working objectives;
- not giving someone any work, or systematically giving them work which does not meet the profile of their job and/or function.

Such behaviour, while unacceptable, may in isolation appear of little consequence. When occurring on a regular basis, however, such conduct can cause serious harm to the person at whom it is directed.

Some kinds of behaviour may hurt certain people without constituting psychological harassment. A remark, a dispute, a clash of personalities at work, a management decision which is difficult to accept (allocation of new tasks, for instance), a duly substantiated negative assessment, even repeated, cannot therefore necessarily be considered psychological harassment.

### 2.2. Sexual harassment

Under the Staff Regulations, **sexual harassment** means conduct relating to sex which is unwanted by the person to whom it is directed and which has the purpose or effect of offending that person or creating an intimidating, hostile, offensive or disturbing environment.

Sexual harassment may take different forms (physical, verbal, written or other), and involve persons of the different sex and of the same sex. The essential characteristic of sexual harassment is that it is unwanted by the recipient; it is therefore for each individual to determine what behaviour is acceptable to them and what they regard as offensive. Sexual attention becomes sexual harassment if it is persisted in once it has been made clear that it is regarded by the recipient as offensive, although, unlike psychological harassment, a single incident may constitute sexual harassment if it is sufficiently serious. Anyone who is guilty of such behaviour knows or should know that it affects the dignity of women and men at the workplace. Sexual harassment is also treated as discrimination based on gender.

A range of different types of behaviour can be considered sexual harassment, such as:

- promises of some kind of reward (favourable career moves, etc.) in return for sexual favours, or threats of reprisals if such requests are turned down;
- repetition of coarse or suggestive remarks, or sexual innuendo;
- use of crude and obscene language and gestures;
- repeated and exaggerated compliments on the appearance of a work colleague;
- physical contact, rubbing against someone, pinching, deliberate unwanted kisses;
- acts of voyeurism or exhibitionism;

---

6 For example: groping, torn clothing, etc.
7 See Article 12a(4) of the Staff Regulations, applicable to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS respectively.
• use of pornographic material.

2.3. Consequences of conduct constituting psychological harassment or sexual harassment

Psychological harassment or sexual harassment might have various consequences for the person who suffers it or feels they are being subjected to it:

• they become isolated and social relationships tend to deteriorate;
• they make more and more mistakes, can no longer concentrate, become less productive, are demotivated, etc.;
• their professional development is hindered, career jeopardised, their very job put on the line;
• they suffer mental and physical health problems such as stress, anxiety, shame, demoralisation, humiliation, disorientation, somatic disorders, depression or increasingly serious physical and psychological disorders, which may, in extreme cases, lead to suicide.

The adverse consequences do not just affect the victims, but also impact on other colleagues and on the institution itself: loss of expertise, staff transfers, fall in productivity, absenteeism, harming the image of the institution, etc.

2.4. The concept of the “victim” in the context of psychological or sexual harassment

Cases of psychological harassment are dealt with differently in the informal or the formal procedure.

At the formal level, in line with the Staff Regulations, psychological harassment will only be considered to exist if the conduct of the alleged harasser is regarded as abusive, intentional, repetitive, sustained or systematic and has the effect of, for instance, discrediting or undermining the person concerned. These criteria are cumulative. Objective facts will help verify whether these criteria have actually been met and if action can be taken.

At the informal level, however, the aim is to provide psychosocial assistance. Here, the perception of harassment is subjective and depends on the situation as perceived by the person concerned. The goal is to bring an end to the distress generated both by a “proven” situation of psychological harassment and by a situation that is perceived as such. The key characteristic of psychological harassment in this case is that the person subject to it considers it undesirable conduct.

As regards sexual harassment, the formal definition in the Staff Regulations covers the subjective perception of such behaviour (unwanted conduct).

In the informal procedure, therefore, the term “victim” refers to any person who defines themselves or identifies themselves as such. However, it is important to remember that there is a fundamental legal distinction between a person “who feels they are the victim of harassment” and one “who has actually suffered harassment” and is therefore recognised as a victim on the basis of proven facts, having gone through the formal procedure. No stage of the informal procedure may prejudice the outcome of the formal procedure.

3. ECSEL JU POLICY ON PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT

ECSEL JU’s policy on psychological and sexual harassment, which will promote the development of an organisational culture in which every member of staff feels personally bound to respect and protect the dignity of their colleagues. In a professional environment in which different languages

---

8 Notwithstanding terms used in this Decision, a “victim”, or a “harasser” should be understood as such only after a formal procedure which results in recognition of harassment. Otherwise, persons concerned should be understood as “alleged victim”, or “alleged harasser”.

and cultures coexist, generating a huge variety of interactions, these phenomena of violence may take a variety of forms and be perceived in a variety of ways. However, any conduct which does not respect the dignity of the person must be condemned.

ECSEL JU will take the necessary steps to prevent and punish, under the Staff Regulations and the relevant EU legislation, any conduct that prejudices the dignity of its staff and undermines its good name. Any conduct deemed to constitute psychological harassment or sexual harassment is regarded by ECSEL JU as unacceptable and will be punished regardless of the rank of individuals formally recognised as guilty of such conduct.

The goals of ECSEL JU’s harassment-prevention policy are:

- to promote a culture in which psychological and sexual harassment, like other forms of violence in the workplace, are considered unacceptable and are neither tolerated nor ignored;
- to broaden the policy of preventing psychological harassment or sexual harassment by raising awareness among staff, and providing information, training and counselling;
- to introduce simple and effective procedures to protect the dignity of each and every person working at ECSEL JU;
- to take appropriate action (if necessary, disciplinary measures) in accordance with the Staff Regulations against any person who is found guilty of psychological harassment or sexual harassment.

4. **General principles for dealing with requests**

4.1. **Respect of dignity**

As an employer and pursuant to the duty to have regard of the welfare of staff, ECSEL JU must guarantee that its staff is treated in all circumstances with respect and dignity.

4.2. **Principle of protection of the victim and the possible witness**

The policy to combat harassment is a protection tool for persons employed within ECSEL JU. In this context, the victims and the possible witnesses will benefit from ECSEL JU’s protection guaranteed under Article 24 of the Staff Regulations.

Moreover, Article 12a of the Staff Regulations states that: “An official who has been the victim of psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution. An official who has given evidence on psychological or sexual harassment shall not suffer any prejudicial effects on the part of the institution, provided the official has acted honestly.”

4.3. **Principle of confidentiality**

Concerning the administration, confidentiality is guaranteed during and after the informal procedure, as well as during and after the formal procedure. Compliance with the legislation on the protection of personal data applies within both the formal and informal procedures.

---

10 See Articles 12 and 12a of the Staff Regulations, applicable to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS respectively.

11 See Article 86 of the Staff Regulations and Article 9 of Annex IX and Article 50(a) of the CEOS as regard temporary staff, applicable by analogy to contract staff by virtue of Article 119 of the CEOS.

12 See footnote 3.

13 See footnote 3.

4.4. **Principle of the presumption of innocence**
The presumption of innocence is fully guaranteed to alleged harassers.

4.5. **Principle of promptness**
In both the formal and the informal procedures, all requests for assistance by a person complaining of psychological harassment or sexual harassment will be dealt with as quickly as possible. However, if an administrative inquiry is opened as part of the formal procedure, the timeframes for handling the request will be longer.

5. **Preventive measures**
The policy on prevention of psychological harassment and sexual harassment is based on an overall plan of preventive measures, comprising a number of different stages.

Specific prevention consists of developing a strategy of information and training; both individual and collective, to avoid and reduce the risk of psychological or sexual harassment.

5.1. **Information**
Information to staff will consist of:

- awareness campaigns comprising for instance talks, discussions, workshops, brochures and posters explaining to staff ECSEL JU policy of preventing psychological and sexual harassment (understanding the different forms of violence at work, spotting problem behaviour, etc.);
- the provision of clear and precise information to help staff find out quickly and easily how to obtain support, advice and guidance and how to lodge a complaint.

5.2. **Training**
The training plan to support a policy of prevention of psychological and sexual harassment comprises:

- raising staff’s awareness of psychological harassment and sexual harassment issues when they join the service;
- management participation in specific training and seminars to improve awareness of psychological and sexual harassment issues and to help them manage such situations. Managers shall attend such courses;
- specific training courses on psychological harassment and sexual harassment issues for staff and particular target groups as and when required;
- specific training courses, both initial and ongoing training, in the interests of the service, for all confidential counsellors.

6. **Parties involved**

6.1. **The HR Unit**
The HR Unit is responsible for drawing up and monitoring the implementation of the policy relating to psychological and sexual harassment. The contact person(s) in the HR Unit is/are the central correspondent(s) who staff can approach in the event of psychological or sexual harassment, for information on policy and procedures and to contact the confidential counsellors. The contact person(s) in the HR Unit, all along the procedure, shall be bound by the duty of confidentiality.
The HR Unit will oversee initiatives allowing the implementation of the informal procedure, and the different aspects associated with the operation of the confidential counsellor network, including allocating the cases of psychological or sexual harassment submitted to it to specific confidential counsellors. It will provide an overview of cases submitted to the network of counsellors, in accordance with the arrangements that will be laid down in the Manual of procedures of confidential counsellors.

This policy (training measures, information campaigns, coordinating the prevention plan) will be implemented and developed on the basis of close cooperation between the various departments concerned: HR Unit, Appeals unit, investigation team/expert/investigator.

The operational links between the various departments and networks concerned will be overseen by the HR Unit.

6.2. Confidential counsellors

The appointment of confidential counsellors is based on an open inter-JUs call for applications and selection criteria which will be published by the JUs. Confidential counsellors are selected by a panel made up of representatives of the JUs in charge of human resources and the Staff Committees. The panel’s choice is submitted to the Executive Directors who officially appoint the confidential counsellors. The HR Units will ensure, as far as possible, a broad representation of the different categories of staff and of gender balance. Counsellors are to be appointed on a voluntary basis and, to ensure continuity within the network, appointments will be for two years, renewable twice only. Before being appointed, counsellors will receive special training in targeted modules. They will subsequently receive ongoing training and appropriate supervision for such counselling work.

The confidential counsellors operate within the context of the informal procedure (see point 7.2.). The units are advised to take account of the tasks of confidential counsellors and to help them carry out their work as far as possible (by giving them access to meeting rooms, for instance). The operational procedures for the network will be described in a Manual of procedures for confidential counsellors drawn up by the HR Unit in consultation with the network of confidential counsellors. The arrangements for exchanges of information between confidential counsellors and HR Unit will be laid down in this Manual.

In carrying out their function and mandate confidential counsellors may not suffer any prejudice from ECSEL JU, provided that they have acted in good faith and in accordance with the Manual of procedures.

6.3. The network of confidential counsellors

The network is the key forum for meeting and for exchanges of good practice and points of view of its members in accordance with the arrangements that will be laid down in the Manual of procedures. It offers a framework for reflection and effective action. It is also intended to provide an operational response contributing to the implementation of specific rules to stamp out psychological harassment or sexual harassment. It plays a role in evaluating, monitoring and, where necessary, modifying procedures.

6.4. Human resources manager and line managers

Human resources manager and line managers are in principle the first people who may be contacted by anyone encountering psychological harassment or sexual harassment. Responsibility for actively promoting and applying the policy lies with them, since they represent the tier of management that is in direct contact with staff. It is up to them to take steps to prevent psychological harassment or sexual harassment, raise awareness and inform their staff of existing procedures, and play a role in

---

15 The mandate of individual confidential counsellors may be withdrawn by the appointing authority in accordance with the procedures that will be laid down in the Manual.
any transfers of staff that may be required. They must also, in close collaboration with the various parties concerned, ensure the rapid and fair handling of any incident or complaint on this issue.

6.5. Staff

Each and every person working at ECSEL JU, regardless of grade or contract of employment (this includes the trainees and all those working under a contract under national law), may, if they feel they are the victim of psychological harassment or sexual harassment by a member of staff of ECSEL JU, initiate an informal procedure. However, only staff covered by the Staff Regulations and seconded national experts have access to the formal procedure, as described in Chapter 7. Any person not covered by the Staff Regulations working under a contract under national law and wishing to lodge a complaint concerning psychological harassment or sexual harassment against a member of Agency staff may do so under national legislation. However, they may also bring the events which are the subject of their complaint to the attention of the HR Unit. If the information provided is sufficiently serious, an administrative inquiry may be opened.

Any person who is made aware of, or is a witness to, conduct which appears to be improper according to the above descriptions has both the right and the duty to so inform whichever of the parties mentioned in this point (HR Unit, confidential counsellors, human resources manager, line managers). They are also obliged to cooperate in the smooth running of all enquiries carried out as part of the formal procedure.

7. PROCEDURES FOR DEALING WITH PSYCHOLOGICAL HARASSMENT AND SEXUAL HARASSMENT CASES

7.1. General advice

Some people are not always aware of the impact of their behaviour. If a certain type of conduct is felt to be inappropriate or embarrassing, it is advisable to make this clear. In the event of sexual harassment in particular, ambiguous behaviour should be set straight. It is important to react immediately, setting limits politely but firmly. In some cases, simply making it clear that the victim of such conduct finds it offensive and liable to undermine their performance at work or even their health could be sufficient to put an end to the situation.

If unwanted behaviour continues, a written record should be kept of all incidents: dates, circumstances, description of events, potential witnesses, personal reactions at the time and afterwards, any psychosomatic consequences.

Any person who feels they are the victim of psychological harassment or sexual harassment is entitled to submit a request for assistance either informally or formally. As a first step, staff are strongly advised to seek resolution of the problem through conciliation, via the informal procedure, with the assistance of a confidential counsellor. Anyone who feels they are the victim of psychological harassment or sexual harassment is, however, free from the outset to initiate a formal procedure under the Staff Regulations, involving longer timeframes. The informal procedure can also lead to a formal procedure if it proves impossible to find a solution. Passage to the formal procedure is understood to automatically involve closure of any informal procedure underway. The advantage of the informal procedure over the formal procedure lies in the possibility of finding an amicable solution and possibly avoiding a formal procedure. The advantage of the formal procedure is that it establishes the facts and, on the basis thereof, ends in the potential adoption of a penalty

---

16 Staff covered by the Staff Regulations refers to staff covered by the Staff Regulations and the CEOS (officials, temporary staff, contract staff, local staff, special advisers).

17 Following ECSEL JU’s Decision laying down rules on the secondment of National Experts to ECSEL JU.

18 For a summary of the rights and responsibilities of those who are victims of psychological and sexual harassment and of alleged harassers, see Annex I.

19 See point 6.5 for the differences between the categories of staff.
against a person found guilty of psychological harassment or sexual harassment at the end of a disciplinary procedure.

Any person accused of psychological harassment or sexual harassment may also request information (e.g. on current policy or procedures or those to be followed) or advice from the HR Unit. These services may usefully advise the alleged harasser of the options for resolving the conflict, depending on the seriousness of the accusations. However, in compliance with the principle of confidentiality and in the absence of the consent of the victim, such information shall not refer to specific cases of harassment, in particular those launched via informal procedure.

7.2. Informal procedure

Someone who feels they are a victim of harassment may contact a confidential counsellor through the informal procedure. Depending on the case, emergency measures may be considered. The informal procedure allows monitoring and may lead to an amicable resolution. However, it does not involve formal recording of the facts or the application of penalties: this is done in the formal procedure (see point 7.3).

7.2.1. Confidential counsellor procedure

Any person who feels they are the victim of psychological harassment or sexual harassment may contact a confidential counsellor, by:

- contacting the HR Unit directly by phone, in person or email;
- contacting the confidential counsellor of their choice directly by consulting the list of confidential counsellors.

In the first case, the contact person in the HR Unit directs the victim towards a confidential counsellor who, wherever possible, meets the key criteria (language, gender, units) specified. As a matter of principle, the confidential counsellor will be from another, wherever possible unit. The first objective of the confidential counsellor is to recognise and alleviate the victim’s suffering by receiving them and listening to them without preconceptions and without passing judgment. The confidential counsellor will inform the victim of the existing procedure and of their rights. They will accompany and guide the victim, examining with them the various options and structures that will help find a satisfactory solution to the problem (directing them towards and placing them in contact with ECSEL JU's human resource manager). Any action taken by confidential counsellors in the informal procedure may only be carried out with the prior agreement of the victim and must remain within the framework of the mandate given to them.

The confidential counsellor may meet the other party and play a conciliatory role in an attempt to reach an amicable solution. In all cases, confidential counsellors shall strive to listen carefully to the two parties, remain objective, clarify the facts and ensure good communication. Confidential counsellors have a period of one month within which to deal with the problem. This may be extended to two months if necessary. If no solution can be found in this period, counsellors may propose that the victim lodge a formal request for assistance (see point 7.3).

In the formal procedure, confidential counsellors are limited to providing support for the victim. Under this procedure, and depending on the requirements of the inquiry, confidential counsellors may also be called as witnesses, to testify to facts relevant to the inquiry which they have been informed of during the informal procedure.
7.3. **Formal procedure**

Any person in ECSEL JU who feels they are the victim of psychological harassment or sexual harassment is entitled under the Staff Regulations to initiate a formal procedure: either immediately, without first going through the informal procedure, or in the course of or at the end of the informal procedure.

The Staff Regulations explicitly condemn any form of psychological harassment or sexual harassment by any staff member. Sexual harassment is, moreover, treated as discrimination based on gender (Article 12a(4) of the Staff Regulations).

A formal procedure can be initiated on the basis of a request for assistance under Article 24 of the Staff Regulations (concerning ECSEL JU’s obligation to assist its staff). When the administration has taken the appropriate steps, for example by carrying out an inquiry to establish the facts at the origin of the request in collaboration with the author of that request, this signifies that this request has been followed up and has not been implicitly rejected (absence of reply after 4 months). If the request is rejected, either explicitly or implicitly, the person concerned can lodge a complaint under Article 90(2) of the Staff Regulations and - if it is rejected - submit an appeal to the competent Union Court.

Requests for assistance must be submitted to the HR Unit, which is responsible for initiating the procedure. The appointing authority can then instruct the investigator to carry out an administrative inquiry to determine the facts of the case and apportion any responsibility. Any person who feels they are the victim of sexual harassment must provide all details which might support their allegations. In the case of psychological harassment, a degree of evidence must be provided by the complainant. The person bringing a request for assistance of psychological harassment or sexual harassment may be accompanied at the hearings by a person of their choice, provided that person cannot be called as a witness in the course of the inquiry. At the end of its administrative inquiry the [investigation team/expert/investigator] will present its report, proposing either that the case be closed without further action or that disciplinary proceedings be opened.

When the inquiry concludes to the closing of the case and, consequently, to the rejection of the request for assistance, the principle of good administration requires that the applicant be afforded the possibility to be heard on the facts concerning him or her.

If the report proposes the opening of disciplinary proceedings, the appointing authority may decide, once it has heard the person or persons concerned, to open such proceedings and apply the ensuing penalties if there is confirmation of the wrongful act. If the misconduct involves repeated action or behaviour this will be taken into account in determining the seriousness of the misconduct and deciding on the appropriate disciplinary measure as well as a possible hierarchical relationship.

---

20 Application of the Staff Regulations, Articles 24 and 90, applicable to temporary staff by virtue of Articles 11 and 46 of the CEOS respectively and to contract staff by virtue of Articles 81 and 117 of the CEOS respectively.

21 See footnote 19 for the definition of the staff concerned, to which seconded national experts should be added.

22 Proceeding to the formal procedure implicitly involves automatic closure of any informal procedure pending.

23 See footnote 3.

24 See footnote 3.


26 Applicable to temporary and contract staff by virtue of Articles 46 and 117 of the CEOS respectively.


28 See for temporary and contract staff, Article 50a of the CEOS applicable by analogy to contract staff by virtue of Article 119 of the CEOS.

29 See Article 10(h) of Annex IX to the Staff Regulations, applicable by analogy to temporary staff by virtue of Article 49 of the CEOS and to contract staff by virtue of Article 119 of the CEOS.
If the procedure results in recognition of psychological harassment or sexual harassment, victims will receive compensation for the damage suffered under the terms set out in the Staff Regulations (second paragraph of Article 24) where appropriate.

If the procedure ends in no action, all those who have been interviewed will be informed. If the complaint proves to have been formulated in an abusive manner or in bad faith, the appointing authority may take disciplinary measures, either on its own initiative or at the request of the wrongfully accused person.

7.4. Emergency measures

The main concern of any victim of psychological harassment or sexual harassment is to stop that harassment as quickly as possible. Where there are signs of psychological or sexual harassment, one option which may be envisaged is to move one of the parties concerned within the unit or to another unit. This measure may take the form of a reassignment in the interests of the service, and may involve the victim (preferably with his or her agreement) or the alleged harasser (following an interview with the appointing authority). The aim of such a measure is to separate the two parties and may be proposed to the appointing authority by confidential counsellors or requested directly by one of the parties concerned.

Emergency measures, which must take account of the needs of each particular situation, can be taken immediately. These are precautionary measures designed to put an end to a given situation. They are also intended to give the victim a chance to recover. These measures may of course also be taken within the framework of the formal procedure, at the request of the alleged victim or on the initiative of the appointing authority.

7.5. Recurrent cases

Requests for assistance from different people involving the same individual raise concerns. These will therefore be brought to the knowledge of the HR Unit and of the appointing authority of the alleged harasser. The appointing authority will decide on the most appropriate action to be taken. The HR Unit will inform the investigator of any recurrent cases it identifies. The investigator will inform the appointing authority which will, where appropriate, launch the procedures provided for in Annex IX to the Staff Regulations.

---

30 See footnote 3.
PSYCHOLOGICAL AND SEXUAL HARASSMENT
OUTLINE OF PROCEDURES

The victim contacts a confidential counsellor of their choice

The confidential counsellor may, with the victim's prior agreement, hear the other person and attempt to arrange an amicable settlement (1 to 2 months as necessary)

Resolved

Unresolved

END OF CONFLICT

CLOSED WITHOUT FURTHER ACTION

DISCIPLINARY ACTION

The victim may go straight to the formal procedure

ADMINISTRATIVE ENQUIRY

INFORMAL

FORMAL
ANNEX I

Your rights and responsibilities

A. If you feel you are a victim of psychological harassment or sexual harassment

You are entitled

• to be heard within the informal procedure, by contacting either the HR Unit, a confidential counsellor of your choice, uncritically and under the strictest confidentiality;
• to be certain that the confidential counsellor will not take any steps without your agreement;
• within the context of the formal procedure, to submit a request for assistance to the appointing authority without embarrassment or fear of reprisals or indiscretions;
• to be accompanied by a person of your choice during meetings with investigators;
• to be assured of a fair and impartial investigation;
• to be informed of the result of the investigation and, where applicable, of the measures that will be taken.

You must

• within a reasonable period, make the person you are accusing aware of your disapproval or unease, where necessary accompanied by a confidential counsellor;
• keep a written record of all incidents;
• cooperate with those in charge of the investigation into your complaint.

B. If you have been accused of psychological harassment or sexual harassment

You are entitled

• to contact, if necessary at the informal procedure stage, the HR Unit, your human resources manager to advise you and help you uncritically and under the strictest confidentiality;
• to be informed that an official complaint has been lodged against you and have the opportunity to react to it;
• to be accompanied by a person of your choice during meetings with investigators;
• to be assured of a fair and impartial investigation;
• to be informed of the result of the investigation and, where applicable, of the measures taken.

You must

• keep a written record of all incidents;
• cooperate with those in charge of the investigation into the complaint against you.
ECSEL JOINT UNDERTAKING DECISION

laying down implementing rules on temporary occupation of management posts

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union (‘Staff Regulations’) and to the Conditions of employment of other servants of the European Union (‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 7(2) of the Staff Regulations and Article 10 of the CEOS,

Having regard to the Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking, and in particular Article 6 of its statute;

Having regard to the Communication C(2014)6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2017)7332 of 6.11.2017,

After consulting the Staff Committee,

Whereas:

1) Rules should be laid down for the application of Article 7(2) of the Staff Regulations, which is applicable by analogy to temporary staff by virtue of Article 10 of the CEOS. Article 7(2) of the Staff Regulations states that the Appointing Authority may call upon officials to occupy a post in their function group in a grade which is higher than their own grade, such temporary posting being limited to one year except where it is to replace an official who is seconded to another post in the interests of the service, called up for military service or absent on protracted sick leave.

2) It is necessary to adopt rules on temporary postings on the basis of Article 7(2) of the Staff Regulations which should take into account in an appropriate manner the need to recognise the efforts made by temporary staff members to temporarily ensure the continuity of the service and the principle of equitable treatment.

3) Article 7(2) of the Staff Regulations should apply only where the temporary staff member is called upon to assume temporarily duties which entail responsibilities substantially greater than those involved in their own post. Only the difference in the level of responsibilities between non-management and management (not advisory)² posts and between management posts of different levels can be considered as substantial for the purpose of applying Article 7(2) of the Staff Regulations.

² Middle and senior management functions as defined in the relevant Agency's decisions and relevant decisions applicable to the Agency.
4) The rationale of Article 7(2) of the Staff Regulations is to grant to the temporary staff member who takes up duties which entail responsibilities substantially greater than those involved in their own post for a substantial period a remuneration which corresponds to those greater responsibilities\(^3\).

5) It is necessary to ensure that Article 7(2) of the Staff Regulations is applied in an appropriate manner in view of the career system, in which there is a high degree of separation of grade and duties, as confirmed by the General Court\(^4\).

6) Deputising arrangements are to be distinguished from temporary postings and are not covered by this Decision.

7) In the interest of clarity and legal certainty, Decision ECSEL GB 2015.49 on temporary occupation of management posts should be repealed and replaced by this Decision.

HAS DECIDED AS FOLLOWS:

*Article 1: Posts to which temporary postings may be made*

The middle and senior management posts which a temporary staff member may be called upon to occupy on a temporary basis shall be:

- Director posts in grade AD 14 or AD 15 and equivalent;
- Head of unit posts in grades AD 12 to AD 14\(^5\) and equivalent;
- Head of unit posts in grades AD 9 to AD 14\(^6\) and equivalent.

*Article 2: Conditions for temporary postings*

Temporary postings may be made:

1. where a new or vacant management post cannot be filled in the short term, or
2. to replace a temporary staff member who is seconded to another post in the interests of the service, is called up for military service or is absent on protracted sick leave or for other reasons preventing a temporary agent from exercising the assigned function.

The above-mentioned situations shall as a rule involve periods lasting longer than three months. Only a full-time and uninterrupted absence of the job holder can give rise to a temporary posting.

\(^5\) Within the limits of the establishment plan.
\(^6\) See footnote 5.
Only established temporary staff members who are not serving their probationary period can be called upon to temporarily occupy a post within the meaning of Article 7(2) of the Staff Regulations.

Article 3: Reference grade

For the purpose of calculating the differential allowance, the ‘reference grade’ for a temporary posting will be fixed as follows:

(1) As regards director posts and equivalent as defined in Article 1, the reference grade shall be grade AD 14.

(2) As regards head of unit posts and equivalent as defined in Article 1, the reference grade shall be as a rule:
   
   (a) where the post is published, the lowest grade in the range for which the post is published, as follows:
       – grade AD 9 for the range AD 9/AD 14 (for internal and inter-agency publication);
       – grade AD 12 for the range AD 12/AD 14 (for internal and inter-agency publication);
       – the grade of the external publication (publications of a single grade from AD 9 to AD 12).

   (b) where the post is filled by transfer in the interest of the service or where the post is not vacant, grade AD 9 or AD 12 as set by the Authority authorised to conclude the contracts (‘AACC’).

Article 4: Differential allowance

From the beginning of the fourth month of a temporary posting, the temporary staff member concerned may receive a differential allowance equal to the difference in current remuneration of the temporary staff member and the remuneration according to the level of the temporary posting, as follows:

(1) If the temporary staff member is in the grade immediately below the reference grade, the differential allowance shall be equal to the difference between the remuneration of the temporary staff member throughout the relevant period and the remuneration they would receive if they were reclassified to the reference grade7.

(2) In duly justified circumstances where the temporary staff member is in one of the grades below the grade immediately below the reference grade, as the differential allowance cannot be calculated by analogy to a reclassification, it shall be equal to the difference between the remuneration of the temporary staff member throughout the

7 Taking account of the provision regarding non-cumulation, as provided in Conclusion 240/05 of the Heads of Administration (see Administrative Notice N° 48-2005), this remuneration will be increased according to Articles 44 and 46 of the Staff Regulations.
relevant period and the remuneration they would receive if they were newly recruited in the reference grade\(^8\). The second step shall be awarded under the conditions laid down in the rules on step classification at recruitment.

(3) If the temporary staff member is in a grade equal to or above the reference grade, except where the temporary staff member already receives the benefit on the basis of their post of assignment, the remuneration of the temporary staff member is increased according to Articles 44 and 46 of the Staff Regulations, which are applicable by analogy to temporary staff by virtue of Articles 20(4) and 15 respectively of the CEOS.

The increase in remuneration according to Articles 44 and 46 of the Staff Regulations will be calculated either on the basis of the grade of the temporary staff member concerned, or on the basis of the reference grade of the post that the temporary staff member temporarily occupies, depending on which option is the most favourable for the temporary staff member concerned\(^9\).

*Article 5: Management experience*

Management experience acquired through a temporary posting shall be taken into account for eligibility purposes in the context of applications for management positions.

*Article 6: Successive periods of temporary posting*

Where the same temporary staff member is the subject of two or more temporary postings in respect of the same functions and those postings are consecutive, the second temporary posting shall be considered as a continuation of the first and the differential allowance shall not be discontinued during the first three months of the second temporary posting.

For the purposes of this provision, a subsequent posting shall be considered to be consecutive if it begins no longer than three months after the end of the previous posting.

*Article 7: Procedure for temporary postings*

(1) Where the conditions in Article 2 are met, the HR Unit may submit a proposal for a temporary posting, stating the reasons and providing all relevant information. The temporary posting is proposed to the AACC.

(2) The effective date of a temporary posting is fixed by AACC in the temporary posting decision pursuant to Article 7(2) of the Staff Regulations, taking account of the proposal submitted by the HR Unit.

(3) Abolition of the post on which a temporary posting has been made as a result of an amendment to the organisation chart automatically entails termination of the temporary posting.

---

\(^8\) See footnote 7.

\(^9\) The amount of the benefit shall be calculated in accordance with the method laid down in Conclusion 240/05 of the Heads of Administration (see Administrative Notice N° 48-2005).
**Article 8: Final provision**

Decision ECSEL GB 2015.49 of 19.11.2015 laying down rules on implementing Article 7(2) of the Staff Regulations as regards the temporary occupation of management posts, is repealed.

**Article 9: Date of application**

This Decision shall take effect on the day following that of its adoption.
Brussels, 17.11.2016
C(2016) 7270 final

COMMISSION DECISION

of 17.11.2016

amending Decision C(2013) 8985 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations
COMMISSION DECISION

of 17.11.2016

amending Decision C(2013) 8985 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Articles 43 and 110 of the Staff Regulations and Article 15(2) of the Conditions of Employment of Other Servants,

After consulting the Staff Committee,

After consulting the Staff Regulations Committee,

Whereas:

(1) Commission Decision C(2013) 8985 applies to all officials and members of the temporary staff, with the exception of senior managers. It covers thus both non-managers and middle managers (heads of unit).

(2) Commission Decision C(2016) 3288 modernises the middle management policy and clarifies managerial expectations towards the Commission’s middle management staff.

(3) In view of the specific duties carried out by heads of unit, the report to be established for them under Article 43 of the Staff Regulations should include an appraisal of the managerial performance. Decision C(2013) 8985 should be amended to include this requirement,

HAS DECIDED AS FOLLOWS:

Sole Article

In Article 2 of Decision C(2013) 8985, the following paragraph is inserted:

'(3a) For a jobholder occupying a function of head of unit, the report shall, in addition, include a conclusion on whether the jobholder's managerial performance has been satisfactory. The conclusion that the jobholder's managerial performance has been unsatisfactory shall be based on factual elements.'

---

2 Commission Decision C(2013) 8985 of 16 December 2013 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations, Administrative Notice No 54-2013.
3 Commission Decision C(2016) 3288 of 15 June 2016 on middle management staff
This Decision shall take effect on 1 January 2017.
Done at Brussels, 17.11.2016

For the Commission
Kristalina GEORGIEVA
Vice-President
ECSEL Joint Undertaking DECISION

on the implementation of telework in ECSEL Joint Undertaking

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials (‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (‘CEOS’) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Article 1(e)(1), 110(2) thereof, Articles 10 and 80 of the CEOS,

Having regard to Council Regulation (EU) No 561/2014 of 6 May 2014 establishing the ECSEL Joint Undertaking and in particular Article 6 thereof,

Having regard to Communication C(2014) 6543 final of 26 September 2014 from Vice-President Šefčovič to the Commission on the guidelines on the implementation of Article 110(2) of the Staff Regulations with regard to the implementing rules applicable in the agencies, and in particular Point 2.B thereof,

Having regard to the agreement of the European Commission pursuant to Article 110(2) of the Staff Regulations C(2017) 5308 of 25.07.2017,

After consulting the Staff Committee,

Whereas:


2) Pursuant to Article 110(2) of the Staff Regulations, implementing rules such as those referred to in Recital 1 shall apply by analogy to ECSEL Joint Undertaking. By way of derogation, an agency may request the Commission’s agreement to the non-applicability of certain implementing rules. The Commission may, instead of accepting or rejecting the request, require the agency to submit for its agreement implementing rules which are different from those adopted by the Commission.

3) Commission Decision C(2015)9151 is suitable to apply to ECSEL Joint Undertaking provided that certain adjustments are made to take into account the peculiarities of the Joint Undertaking. Those adjustments concern in particular, the optional application of a structural telework, the number of days of occasional telework and technical means by which telework is made available.

4) Teleworking is part of a modernising trend in organisations which focuses on result-based management and objective-driven performance to increase efficiency of operations. It allows greater flexibility for work organisation and a better work-life

---

balance of staff by increasing autonomy and making better use of new information technology.

5) The authority authorised to conclude contracts of employment ('AACC') defines teleworking policy in the ECSEL Joint Undertaking in accordance with the present decision. The AACC shall delegate the power to implement this teleworking policy.

6) Teleworking requires teleworkers to be autonomous, to have a sense of responsibility, to be well-organised and to meet deadlines. For the line manager, it means implementing objective-based management as well as developing efficient remote management of teleworkers.

7) To avoid potential risks such as difficulties with the integration of teleworkers in teams or problems with document security or IT provisions, due consideration shall be given to the consequences of teleworking for work organisation within the service and the method of evaluating the performance of teleworkers.

8) In the interests of clarity and legal certainty, ECSEL Decision GB 2016.62 on telework is repealed and replaced by this Decision.

HAS DECIDED AS FOLLOWS:

Article 1

Aim, definition and scope of application

(1) A teleworking scheme is instituted within the ECSEL Joint Undertaking.

(2) Teleworking is a method of organising and carrying out work outside the workplace with the help of information and communication technologies. It aims to help the ECSEL Joint Undertaking achieve a more productive, result-oriented working environment that is conducive to a positive work-life balance. Additionally, it has a beneficial impact on the environment by limiting commuting and improves the business-continuity of the ECSEL Joint Undertaking.

(3) The AACC is responsible for the definition of the teleworking policy in the Joint Undertaking in accordance with the present decision. It shall delegate the power to implement this teleworking policy to the line management. The latter shall implement it in accordance with the present decision under the supervision of the AACC.

(4) On a voluntary basis, every staff member has the right to request to telework. In assessing the request, the AACC shall take into account the interest of the service in the specific circumstances. This includes the benefits that teleworking can bring to the service by increasing performance, of the organisation as a whole and to the staff member concerned.

(5) As knowledge-based activities, tasks carried out by Joint Undertaking staff are as a rule suitable for teleworking. Tasks which require physical presence at the workplace are, however, unsuitable for teleworking, in particular shift work, receiving the public, working as a driver, catering, mail distribution, interpretation, technical and logistical

---

2 In the application of this decision, working outside the workplace primarily refers to working at home. By extension, the workplace includes any workplace where staff attends meetings or is sent on mission.

3 Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.
support to conferences and meetings, crisis management and response operations, security work, child care and medical services.

(6) This Decision does not concern staff working outside the workplace in the context of flexible working-time arrangements under decision ECSEL GB 2016.61 on working time.

(7) The Decision shall apply to all ECSEL Joint Undertaking staff covered by the CEOS regardless of function group or grade. It shall also apply to seconded national experts (‘SNEs’).

Article 2
General provisions

(1) There are two types of teleworking: structural and occasional teleworking.

(2) All the provisions of the Staff Regulations and the CEOS or, where applicable, the provisions on SNEs⁴, apply to teleworkers.

(3) Under the time-accounting arrangements, a teleworking day will count as a standard eight-hour day, and half a day as four hours⁵. No hours worked in excess of four or eight hours respectively shall be recorded during telework.

(4) Teleworkers shall comply with the rules on leave and absences. If the teleworker does not work the number of hours required in the teleworking agreement, as defined in Article 3(1) below, he shall take annual leave or flexitime compensation in the same way as if he had been working at the workplace on that particular day.

(5) Except in the cases described in Article 4(5) and 4(6), teleworkers may be called upon at any time to return to the office, at their own expense, for urgent reasons relating to the interests of the service.

(6) Teleworkers must agree with their line manager which days they will be in the office to suit the service needs and priorities. The minimum period of teleworking is half a day, taken as a single block.

(7) Teleworkers shall organise their work schedule during their teleworking day so as to comply with service needs. Teleworkers shall be contactable at least during core hours, in conformity with decision ECSEL GB 2016.61 on working time.

(8) Teleworkers shall agree on their usual place of work with their line manager and shall agree with him any changes.

(9) By virtue of his delegated powers, the line manager concludes the teleworking agreement referred to in Article 3(1) with the teleworker and agrees with the occasional teleworking in accordance with Article 4(4). The Human Resources (‘HR’) Unit is informed of these arrangements via the dedicated IT tool.

---

⁴ Decision GB 2014.18
⁵ However, for those authorised to work on a part-time basis, time-accounting applies on a pro rata basis, as defined by the relevant part-time work pattern chosen.
Article 3

Structural teleworking

(1) Structural teleworking alternates regular periods of telework with periods of work at the workplace, which are established by mutual agreement between the line manager and the teleworker. This type of teleworking requires the conclusion of a "teleworking agreement" between the teleworker and his line manager in the dedicated IT tool.

(2) Structural teleworking following a one-week cycle pattern requires a minimum teleworking time of half a day per working week. It is limited to a maximum of two and a half days per working week, amounting to 20 hours equivalent to 50% of the 40-hour working week.

(3) Structural teleworking following a two-week cycle pattern requires a minimum teleworking time of two half days (possibly in a row) and is limited to a maximum amount of time of three days and two days, or vice-versa, in the two respective weeks, equivalent to 50% of the 40-hour working week on average.

(4) The minimum weekly presence in the office provided for in the above paragraphs applies even when teleworking is combined with part-time work.

(5) The teleworking agreement shall specify the days on which the teleworker is to be in the office, as the case may be according to the cycle pattern, to suit the service’s needs and priorities. It shall set out the arrangements for maintaining contact with the department and specify the usual teleworking location. The agreement shall set out the teleworker's and the manager's duties in relation to the professional objectives to be achieved. It shall include a reference to the basic regulatory provisions, such as the conditions under which teleworking may be terminated, recommendations on safety and ergonomics, guidelines on the use of equipment and precautions against damage and theft.

(6) A trial period shall be applied in the case of first-time teleworkers, which may be of up to four months.

(7) The agreement is normally concluded for maximum one year and may be renewed. It shall be notified to the competent service in charge of HR for information.

(8) If the teleworker changes post, even within the same service, the agreement shall be reviewed.

(9) During a transitional period, all structural teleworking agreements concluded on the basis of the previous Decision and which expire in the course of 2017, shall be valid until their termination date, without prejudice to termination on other grounds pursuant to Article 5.

Article 4

Occasional teleworking

(1) Occasional teleworking allows staff to telework, on a temporary basis, for a maximum of 60 working days per calendar year.

(2) Occasional teleworking may be used to accommodate work circumstances involving one-off tasks that can be better carried out outside the office, such as focussing on projects that demand specific concentration. Occasional telework may also be used in
case of specific personal or family problems, transportation and mobility issues (e.g. strikes).

(3) Weekly presence in the office shall not, in principle, be less than two and a half days per working week, which amount to 20 hours, equivalent to 50% of 40 hours working week. By derogation, occasional teleworking may be granted in individual cases for a period of consecutive days which exceeds two and a half days per working week. In that case, the HR Unit shall be informed.

(4) To undertake occasional teleworking, staff members shall make a request to their line managers. The latter shall, in principle approve it, unless the teleworking is not compatible with the interests of the service. Approval by the line manager must be given in the dedicated IT tool.

(5) At the request of a Unit which raises duly justified reasons, the HR Unit is empowered to allow occasional telework for longer periods than the ones mentioned in Article 4(1) and 4(3) for all or part of a Unit. In cases of force majeure, the HR Unit is also empowered, after consultation of the concerned service, to request staff members to telework.

(6) Upon the staff member's request and upon recommendation of his treating doctor, occasional teleworking may be granted even beyond the 60-day limit per calendar year, if a staff member has temporarily lost his mobility but is still able to work outside the work place; the period granted must be necessary for recovering the ability to return to the workplace.

Article 5
Termination

(1) A structural or occasional teleworking arrangement may be terminated at any time by the line manager, if the working conditions change or in the interest of the service (for example in the event of a change in the staff member's assignments or duties, when the staff member's performance is affected as a result of teleworking, or, in case of scarce teleworking capacity, when priority is given to another staff member). This is not affected by the appointment of a new line manager.

(2) The line manager terminates the teleworking agreement ahead of time at the request of the teleworker.

(3) The structural teleworker shall be notified at least one month before the termination takes effect. In exceptional circumstances related to the interest of the service, an immediate return to normal working conditions may be requested.

(4) The decision to terminate the teleworking agreement before its term within the meaning of Article 3(7) shall indicate the reasons of termination and the date on which it takes effect.

Article 6
Training and career development

(1) Teleworkers shall retain their entitlements to training as well as their career prospects. In particular, teleworking shall not affect the individual's appraisals or assessments. Teleworkers' workload and performance indicators shall be the same as those of similar job holders working at the workplace.
The ECSEL Joint Undertaking shall provide teleworkers with information on ergonomics, document security, use of IT equipment, precautions to be taken against damage and theft and other subjects relating to teleworking. Management training will take into account the specifics of objective-based and remote management of teleworking staff.

Article 7
Health and safety

(1) Teleworkers shall benefit from the same insurance against accident and occupational disease as staff working at the workplace. They shall take out the home insurance required by the law of the country in which the teleworking takes place. They are responsible for ensuring that their home and its electrical installation comply with the applicable health and safety regulations.

(2) The ECSEL Joint Undertaking shall provide the teleworker with information on occupational health and safety, in particular the use of display screen equipment. Teleworkers shall regularly check the advice on ergonomics communicated to them by the Joint Undertaking and ensure that they maintain an adequate level of compliance.

(3) Teleworkers shall take all precautions necessary to safeguard the confidentiality of the information they handle while teleworking.

Article 8
Teleworking capacity

(1) The ECSEL Joint Undertaking shall optimise the use of tokens or other tools to make teleworking available or feasible as widely as possible for staff members.

(2) The ECSEL Joint Undertaking shall determine a non-discriminatory allocation system, based on objective criteria that are relevant to the proper operation of the service.

Article 9
Equipment and technical support

(1) The ECSEL Joint Undertaking ensures the remote access and puts the necessary equipment at the disposal of teleworkers. It shall continue to progressively provide teleworkers at least with a laptop computer to replace the standard ECSEL Joint Undertaking desktop PCs. This laptop shall be used both in the office and when teleworking.

(2) The ECSEL Joint Undertaking may set out by appropriate means the IT services provided to teleworkers according to types of access. The IT services provided to teleworkers may be adjusted according to users’ needs, technological developments and available budget.

(3) Teleworkers shall bear the cost of their internet subscription and of the communication charges incurred while teleworking, regardless of the chosen teleworking option or type of access. The cost of transferring calls from work telephones to teleworkers’ private numbers shall, however, be borne by the ECSEL Joint Undertaking.
Article 10

Monitoring and evaluation

(1) The HR Unit shall be responsible for monitoring effective implementation and compliance of this Decision within the ECSEL Joint Undertaking, in consultation with the Joint Committee. In particular, the HR Unit will monitor possible correlations between use of telework and career advancement to avoid situations of unequal treatment. At the latest five years after entry into force of this Decision, the HR Unit will report on the implementation of this Decision.

(2) The HR Unit will draw up a Guide for the line managers indicating procedures and good practices to achieve of the objectives of this Decision.

Article 11

Final provisions

(1) The Commission’s Decision C(2015)9151 of 17 December 2015 on implementation of telework in Commission Departments does not apply by analogy at the ECSEL Joint Undertaking.

(2) This Decision shall take effect on the day following that of its adoption.
DECISION OF THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING

Concerning the annual appraisal, probationary and management trial period
of the Executive Director of the ECSEL Joint Undertaking (ECSEL JU)

THE GOVERNING BOARD OF THE ECSEL JOINT UNDERTAKING,

Having regard to Council Regulation (EU) 561/2014 of 6 May 2014 establishing the ECSEL JU
and in particular to Article 6(1) and (3) thereof, and to Article 7(3)(f) and (m), and Article 8(2)
and (6) of the Annex I (Statutes of ECSEL JU), to that Regulation, (hereinafter ‘ECSEL JU
Regulation’),

Having regard to the Staff Regulations of Officials (hereinafter ‘Staff Regulations’) and the
Conditions of Employment of Other Servants (hereinafter ‘CEOS’) of the European Union laid
down by Council Regulation (EEC, EURATOM, ECSC) No 259/68¹, and in particular Articles 43,
44 and 46 of the Staff Regulations and Articles 14, 15 and 20 of the CEOS,

Having regard to Commission Decision C(2019)6641 of 16/09/2019 on giving its agreement
pursuant Article 110(2) of the Staff Regulations,

After consulting the Staff Committee,

WHEREAS,

(1) Pursuant to Article 6(1) of the ECSEL JU Regulation, the Staff Regulations and the
CEOS are applicable to the staff of ECSEL JU.

(2) Pursuant to Article 6(3) of the ECSEL JU Regulation, rules implementing the Staff
Regulations and the CEOS are adopted by the Governing Board in accordance with
Article 110 of the Staff Regulations.

(3) The Executive Director of ECSEL JU is a temporary agent engaged under Article 2(a) of
the CEOS, pursuant to Article 8(2) of the Statutes of the ECSEL JU.

¹ OJ L 56, 4.3.1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European
(4) The Executive Director of the ECSEL JU should be subject to an annual appraisal, to a probationary period and to a management trial period. These various procedures aim to assess the Executive Director with regard to his/her ability, efficiency and conduct in the service.

(5) It is necessary to lay down specific rules, which govern the various appraisals, to which the Executive Director should be subject, in order to determine the role of each actor and identify the various stages to be achieved in order to ensure the transparency of these procedures.

HAS DECIDED AS FOLLOWS:

Title I
Annual appraisal

Article 1 - Scope

1. The Executive Director of the ECSEL JU is hereinafter referred to as ‘the jobholder’.

   Every year an appraisal report shall be drawn up for the jobholder, covering the reference period from 1 January to 31 December of the preceding year, provided that the jobholder was in active employment for a continuous period of at least one month during the reference period.

2. The objective of the annual appraisal is to assess the ability, efficiency, conduct in the service of the jobholder and whether the performance level of the jobholder has been satisfactory.

3. For the first appraisal exercise after engagement, the annual appraisal report concerns the period which is not covered by the probationary period report referred to in Article 14 of the CEOS.

   Article 2 - Role of the various actors

1. The appraisers, hereinafter referred to as ‘reporting officers’, shall carry out an appraisal of the jobholder. After the dialogue held in accordance with Article 6(3), they shall draw up a report and sign it.

2. In case of appeal, the appeal assessor makes the final decision on the report of the jobholder after consultation of the Governing Board.
Article 3 - Designation of the reporting officers and the appeal assessor

1. The Governing Board shall designate at least three reporting officers from among its members. The reporting officers should equally represent the European Commission, the Participating States and the industry partners. Reporting officers cannot be designated to any other functions within the appraisal procedure of the ECSEL JU Executive Director.

2. The appeal assessor shall be the Chairperson of the Governing Board.

Article 4 - Carryover

1. A carryover shall consist of drawing up a report whose content is identical to the preceding annual appraisal report. A carryover must be agreed between the jobholder and the reporting officers. In that case, the procedure set out in Article 6 shall not apply, except for the dialogue specified in paragraph 3 which shall apply mutatis mutandis.

2. The carryover shall be authorised if there has been no significant change in the efficiency, competencies and/or conduct in the service of the jobholder. An annual appraisal report may not be carried over more than once.

Article 5 - Content and form of the annual appraisal report

1. The annual appraisal report shall appreciate simultaneously the ability, efficiency, and conduct in the service of the jobholder. That report shall state whether the performance level of the jobholder has been satisfactory.

2. Without prejudice to Article 5(1), the content and the form of the annual appraisal report can, if necessary, be amended by decision of the Governing Board on a proposal from the reporting officers.

Article 6 - Annual appraisal procedure

1. The annual appraisal takes place, to the extent possible, in the beginning of the year following the reference period.

2. The jobholder establishes, within ten working days after the reporting officers' request, a self-assessment, which is incorporated into the annual appraisal report.

3. At the latest ten working days after the self-assessment is communicated by the jobholder, the reporting officers and the jobholder hold a formal dialogue. If the jobholder refuses to finalise his/her self-assessment within the required time, the reporting officers can decide to hold the dialogue when the deadline referred to in paragraph 2 has expired.

The dialogue shall cover the following elements:
a) The reporting officers examine the jobholder’s efficiency based on fulfilment of objectives and carrying out of the implementation of the ECSEL JU work plan, demonstrated abilities and the conduct in the service of the jobholder for the reference period.

b) The jobholder and the reporting officers set the objectives for the following reference period and, if necessary, a training plan which takes into account the objectives linked to the ECSEL JU work plan and the personal development goals.

4. At the latest ten working days after the formal dialogue, the reporting officers shall draw up an annual appraisal report. This report shall comprise a general appraisal, which takes into account the assessments given on the ability, efficiency and conduct in the service of the jobholder, in accordance with the criteria defined in the appraisal report, and it shall establish whether the performance level of the jobholder has been satisfactory.

5. The report shall be notified in writing to the jobholder.

6. The jobholder has five working days to accept the report without making any comments, accept it after adding comments in the appropriate section of the report, or refuse the report by justifying the reason for the refusal in the appropriate section. If the report is accepted by the jobholder, the report is closed. A report is deemed to be accepted in case of absence of reaction of the jobholder within the time foreseen.

7. The closed report shall be transmitted to the chairperson of the Governing Board for information.

Article 7- Appeal procedure

1. The jobholder’s reasoned refusal to accept the report in accordance with Article 6(6) shall automatically mean referral of the matter to the appeal assessor. The jobholder may withdraw his/her reasoned refusal to accept the report at any time.

2. Upon request by the jobholder, expressed in his/her reasoned refusal to accept the report, which is transmitted to the appeal assessor, the latter shall give his/her opinion to the jobholder within five working days as from the date of the reasoned refusal.

3. After consultation with the Governing Board, the appeal assessor shall confirm or amend the report. When the appeal assessor departs from the opinion of the Governing Board, he/she shall justify his/her decision. The reporting officers shall be excluded from these consultations.

4. The report is then closed and communicated to the jobholder and to the Governing Board.
Article 8 - Time limits

1. The time limits referred to in Articles 6 and 7, as they concern the jobholder, shall be calculated only from the time when the relevant decision has been notified to the person concerned or, at the latest, when the latter, acting as a diligent agent, may be expected to be aware of the content of that decision and the reasons for it.

2. These time limits shall be suspended, however, if and for as long as the jobholder is unable to access the decision concerned.

Title II
Probationary period and management trial period

Article 9 - Scope of the probationary period

1. A newly engaged ECSEL JU Executive Director shall be subject to a probationary period, in accordance with Article 14 of the CEOS.

2. The ECSEL JU Executive Director concerned is hereinafter referred to as ‘the probationer’.

3. The probationer shall serve a nine-month probationary period. When, during the probationary period, the probationer is prevented, by sickness, maternity leave or accident, from performing his/her duties for a continuous period of at least one month, the reporting officers may propose to the authority authorised to conclude contracts of employment ('AACC') to extend his/her probationary period for the corresponding length of time. The total length of the probationary period shall in no circumstances exceed 15 months.

Article 10 - Management trial period

Subject to Article 9(3), a newly engaged ECSEL JU Executive Director shall serve a management trial period of nine months, unless he/she has already successfully passed such a trial period in a previous function in any other European institution or body.

Article 11 - Role and designation of the various actors

Articles 2 and 3 shall apply mutatis mutandis.

Article 12 - Content and form of the probationary report
1. The probationary report aims to appreciate simultaneously the ability, efficiency and conduct in the service of the probationer within the probationary period. It should also include the assessment of the management skills, unless the management trial period has already been successfully passed as indicated in Article 10.

2. Subject to Article 12(1), the content and form of the probationary report can, if necessary, be amended by decision of the Governing Board on a proposal from the reporting officers.

   **Article 13 - Procedure for the probationary period**

1. During the month which follows the first day of entry into service, the reporting officers shall meet the probationer in order to comment on his/her job description, to set the objectives and to agree, in writing, on how these objectives and the performance level expected from the probationer will be assessed during his/her probationary period. The assessment will particularly take into account the efficiency based on fulfilment of objectives and carrying out of the implementation of the ECSEL JU work plan, demonstrated abilities and conduct in the service of the ECSEL JU Executive Director in particular with regard to Title II of the Staff Regulations applicable to temporary agents by virtue of Article 11 of the CEOS.

2. In case of obvious inaptitude, a report may be drawn up at any time of the probationary period. Further proceedings of the AACC in such a case are stipulated in Article 14(2) of the CEOS.

3. At the latest one month before the expiry of the probationary period, a report shall be drawn up by the reporting officers on the efficiency of the probationer, on his/her abilities to perform the duties pertaining to his/her post including the probationer's management skills as determined by Article 10, and on his/her conduct in the service. The probationer and the reporting officers shall hold a formal dialogue on the report.

4. At the latest ten working days after the formal dialogue, the reporting officers shall make a single proposal to the AACC, in the final report, either establishment, extension, according to Article 9(3) of the probationary period, or dismissal of the probationer, which shall be based on the probationer’s ability, efficiency, conduct in the service and senior management skills.

5. After having been notified of the report in writing, the probationer has eight working days to accept the report without making any observations, accept it after adding comments in the appropriate section of the report, or refuse the report justifying the reason of the refusal in the appropriate section in conformity with the procedure foreseen in Article 14 of this decision. If the report is accepted by the probationer, the appraisal report is closed. A report is deemed to be accepted in case of absence of reaction of the probationer within the time foreseen.
Article 14 - Appeal procedure

Articles 7 and 8 shall apply mutatis mutandis.

Article 15 - Final decision

1. After the acceptance of the report by the probationer, or, if applicable, at the end of the appeal procedure or possible extension of the probationary period, the AACC shall decide on the action to be taken, namely establishment, extension of the probationary period pursuant to Article 9(3), or dismissal of the probationer. In the case of dismissal, the AACC shall decide after hearing the probationer.

2. Should dismissal be recommended, the report shall be transmitted immediately by the Governing Board to the Commission. The probationer may be dismissed only upon a decision of the Governing Board acting on a proposal from the Commission, in accordance with Article 8(6) of the Statutes of the ECSEL JU.

The reporting officers and, if applicable the appeal assessor, shall be excluded from the decision referred to in paragraph 1.

Article 16 - Management allowance

1. The management allowance is paid after written confirmation of the probationer's capacity to fulfil his/her management functions satisfactorily in the report referred to in Article 12 once the latter is closed.

2. The management allowance is paid retroactively as from the date of appointment of the probationer.

Article 17 - Final provisions

The Decision of the Governing Board ECSEL GB 2015.29, concerning the appraisal of the Executive Director of the ECSEL JU adopted on 26 February 2015, is repealed.

This decision shall take effect on the day following that of its adoption.

Done at Brussels on [date] 29.10.2019

For the Governing Board of the ECSEL JU

[Signature]
Sabine Herlitschka
Chairperson of the Governing Board
ANNEX 1

Guidelines on whistleblowing

1. **INTRODUCTION**

1.1. **General**

Having procedures for raising concerns about fraud, corruption or other serious wrongdoing is relevant for all responsible organisations and for the people who work there. While good internal control systems can reduce the probability of something going seriously wrong, this risk can never be reduced to zero. Where this risk materialises, the first people to realise or suspect the problem will often be those who work in or with the organisation. Yet unless the culture is one where employees believe that it is safe and accepted that such concerns are raised, the risk is that people will stay silent. This denies the organisation an important opportunity to detect and investigate the concern, to take any appropriate action and to protect its assets, integrity and reputation.

The most effective way to encourage staff to report concerns is to provide assurance of protection of their position. Clearly defined channels for internal reporting as well as safe and accepted routes through which staff may raise concerns outside the organisation as an option of last resort should be in place.

Viewed in this way, having whistleblowing procedures and whistleblower protection in place is simply a question of good management and a means of putting into practice the principle of accountability. They contribute to improving the diligence, integrity and responsibility of an organisation.

It is against this background that rules on whistleblowing were adopted and included in the Staff Regulations (Articles 22a and 22b)\(^1\) in 2004. They complement the general principle of loyalty to the European Union, the obligation to assist and tender advice to superiors (Article 21) as well as the rules on how to deal with orders which are considered to be irregular or likely to give rise to serious difficulties (Article 21a).

While these rules have already triggered a number of significant investigations by the European Anti-Fraud Office (OLAF), some staff may be reticent to make full use of the whistleblowing procedure, because of a fear of negative repercussions on their reputation or career. As part of the ECSEL Joint Undertaking’s duty to have regard for the interests of staff members (‘devoir de sollicitude’), it is necessary to ensure that members of staff who report serious wrongdoings or concerns in good faith are afforded the utmost confidentiality and greatest degree of protection against any retaliation as a result of their whistleblowing.

As whistleblowing arrangements are widely recognised as an important tool to detect fraud, corruption and serious irregularities, it is important that staff fully understand the types of situations where the obligation to ‘blow the whistle’ applies, and to whom they should address their concerns. Providing guidance on this issue is part of ECSEL Joint Undertaking’s overall ethics policy, which aims *inter alia* at clarifying the rules regarding professional ethics in the ECSEL Joint Undertaking.

---

\(^1\) Articles 22a and 22b of the SR are applicable by analogy to temporary agents and contract agents, pursuant to Articles 11 and 81 of the CEOS.
Accordingly, ECSEL Joint Undertaking has issued the following guidelines, in agreement with OLAF.

1.2. Basic principles

- Members of staff have a duty to report serious irregularities.

- For this purpose, members of staff must have a choice between a number of reporting channels for whistleblowing, as determined under point 2. ‘Reporting procedures’. The principal channel is the normal chain of hierarchical command. If staff consider it to be safer to bypass the normal chain of hierarchical command, they must be able to do so. Under certain conditions, staff may address their concerns to another EU institution as an option of last resort.

- Members of staff who report serious irregularities in good faith must not under any circumstances be subject to retaliation for whistleblowing. They must be protected and their identity must remain confidential if they so desire.

- ECSEL Joint Undertaking and/or OLAF must verify the reported facts in the appropriate manner and, if they are confirmed, ECSEL Joint Undertaking will take all necessary steps to ensure the appropriate follow-up.

- The rights of defence of any person implicated by the reported incidents must be respected.

- Malicious or frivolous denunciations will not be tolerated.

1.3. Scope of the policy

The ECSEL Joint Undertaking's whistleblowing rules and guidelines apply to all members of staff, irrespective of their administrative position\(^2\).

1.4. Definitions

For the purpose of these guidelines, a whistleblower is a member of staff, acting in good faith, who reports facts discovered in the course of or in connection with his or her duties which point to the existence of serious irregularities. The reporting should be done in writing and without delay, as determined under point 2. ‘Reporting procedures’.\(^3\)

Under the whistleblowing rules, staff are obliged to report serious irregularities. In the present context, serious irregularities are illegal activities, including fraud and corruption, and serious professional wrongdoings. As the whistleblowing arrangements are essentially a detection mechanism to bring cases to the attention of OLAF, the duty to report concerns only serious professional wrongdoings, and particularly those that may be detrimental to the financial interests of the European Union.

Accordingly, not every disclosure of any type of information qualifies as whistleblowing in the sense of these rules. For example, the rules are not intended to apply to the reporting of the following types of information:

\(^2\) While the whistleblowing rules do not strictly speaking apply to seconded national experts, trainees, interim staff and local agents, these categories of staff are also encouraged to make use of the arrangements set out in this documents and the Agency undertakes to protect these categories of staff against retaliation if they do so in good faith.

\(^3\) Prior to reporting, a staff member may seek guidance and support as described in section 5. This does not have to be done in writing.
Information already in the public domain (for example: newspaper articles, publicly available audits);

- Unsubstantiated rumours and hearsay;
- Matters of a trivial nature;
- Disagreements over legitimate policy;
- Information not linked to the performance of one's duties.

Neither do the rules apply to information for which specific procedures are available to staff:

- Personnel issues where staff have a personal interest in the outcome. In these cases, staff may wish to exercise their statutory rights, for example by lodging a request or complaint under Article 90 of the Staff Regulations, applicable by analogy to temporary agents and contract agents, pursuant to Articles 46 and 117 of the CEOS;

- Harassment claims and personal disagreements or conflicts with colleagues or hierarchy. In appropriate cases, staff may wish to address themselves to the Head of Administration and Finance, or to a confidential counsellor, or to lodge a request for assistance under Article 24 of the Staff Regulations, applicable by analogy to temporary agents and contract agents, pursuant to Articles 11 and 81 of the CEOS.

Nor do the rules apply to disclosures that cannot be considered as reasonable or honest, such as:

- Abusive disclosures (repeated disclosures of alleged facts aimed merely at paralysing a service);
- Malicious, frivolous or potentially defamatory disclosures (i.e. false or unverifiable accusations with the aim of harming another person’s integrity or reputation).

‘Good faith’ can be taken to mean the belief in the veracity of the reported facts, i.e. the fact that the member of staff reasonably and honestly believes the transmitted information to be true. Good faith is presumed unless and until proven otherwise.

‘Retaliation’ is defined as any direct or indirect action or threat of action which is unjustly detrimental to the whistleblower and resulting from the whistleblowing, including, but not limited to, harassment, discrimination, negative appraisals and acts of vindictiveness.

‘Confidentiality of identity’ means that the identity of the whistleblower is known to the recipient of the information but is kept confidential vis-à-vis the person(s) potentially implicated in the serious irregularity reported and used on a strict need-to-know basis.

‘Anonymity’ refers to the situation whereby the identity of the source of the information is not known to the recipient.

Staff members who make a report in bad faith, particularly if it is based knowingly on false or misleading information, shall not be protected and shall normally be subject to disciplinary measures. The burden of proof in this context is on ECSEL Joint Undertaking.

2. Reporting procedures

Internal whistleblowing – first option

Staff members who, in the course of or in connection with their duties, discover that serious irregularities may have occurred or may be occurring, are obliged to report this discovery forthwith and in writing to either their immediate superior or to the Executive Director.
Internal whistleblowing – second option

If there is a concern that this disclosure may lead to retaliation or that the intended recipient of the report is personally implicated in the serious irregularities, then the staff member may also bypass this direct means of internal reporting and address his or her report to the Chair of the Governing Board or directly to OLAF.

In any case, the recipient of the information is in turn obliged to transmit the information thus received without delay to OLAF. Therefore, while the staff member concerned has a choice of reporting channels, the information should ultimately reach OLAF in a short period of time.

External whistleblowing – option of last resort

Upon receipt of the information reported internally, OLAF or ECSEL Joint Undertaking must give the whistleblower within 60 days of receipt of the information an indication of the period of time that it considers reasonable and necessary to take appropriate action.

If no action is taken within that period of time, or if the whistleblower can demonstrate that the period of time set is unreasonable in light of all the circumstances of the case, he or she may make use of the possibility of external whistleblowing as provided for in Article 22b of the Staff Regulations.

Under this Article, if neither ECSEL Joint Undertaking nor OLAF has taken appropriate action within a reasonable period, the staff member who reported the wrongdoing has the right to bring his or her concerns to the attention of the President of either the Commission, the Council, the Parliament or the Court of Auditors, or to the Ombudsman. In this case, the whistleblower protection continues to apply.

However, the duties of discretion and of loyalty imply that this is an option of last resort, justifiable only if the staff member concerned honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true and if s/he has allowed ECSEL Joint Undertaking or OLAF a reasonable period of time to take the appropriate action.

ECSEL Joint Undertaking is under the obligation to ensure the confidentiality of information received and ECSEL Joint Undertaking’s staff members are therefore necessarily subjected to a duty of discretion.

External disclosure to other EU institutions, which are clearly able to hold ECSEL Joint Undertaking to account because of their institutional role but are also themselves subjected to the duty of discretion, therefore strikes an effective balance between the public interests of confidentiality and loyalty and those of transparency and accountability.

It is up to the staff member to choose the most appropriate channel for reporting the serious irregularities that they must disclose. However, if a matter is reported to ECSEL Joint Undertaking department which is not competent to deal with it, it is up to that department to transmit, in the strictest confidence, the relevant information and documents to the competent person, as indicated in point 2. under Internal whistleblowing, and to inform the member of staff accordingly.

3. PROTECTION FOR WHISTLEBLOWERS

Any staff member who reports a serious irregularity, provided that this is done in good faith and in compliance with the provisions of these guidelines, shall be protected against any acts of retaliation. Regarding burden of proof, it shall be up to the person taking any adverse measure against a whistleblower to establish that the measure was motivated by reasons other than the reporting.
It should be noted that staff members will not be expected to prove that the wrongdoing is occurring, nor will they lose protection simply because their honest concern turned out to be unfounded.

The protection continues to apply in cases of external disclosures to other EU institutions, provided that the staff member honestly and reasonably believes that the information and any allegation in it are substantially true. In this context, account will be taken of any information the staff member has had from ECSEL Joint Undertaking and from OLAF following the initial internal reporting.

The following specific protective measures apply:

**Confidentiality of identity**

The protection of a person reporting a serious irregularity in good faith shall be guaranteed first of all by the fact that their identity will be treated in confidence. This means that their name will not be revealed to the person(s) potentially implicated in the alleged wrongdoings, or to any other person without a strict need to know, unless the whistleblower personally authorises the disclosure of his/her identity or this is a requirement in any subsequent criminal law proceedings. In all other cases, the ECSEL Joint Undertaking is committed to keeping the identity of the whistleblower confidential.

In this respect the Court has ruled that disciplinary procedures that are opened on the basis of information of which the source is not revealed are regular, as long as it does not affect the possibility of the person who is subject to a subsequent disciplinary procedure to comment on the facts or documents transmitted, or on the conclusions that the ECSEL Joint Undertaking draws from them.⁴ The disciplinary rules of ECSEL Joint Undertaking allow it to keep the identity of the whistleblower confidential, while ensuring that the rights of defence of the person concerned are fully respected.

**Mobility**

If the member of staff concerned wishes to be moved to another unit of ECSEL Joint Undertaking in order to safeguard him- or herself against potential hostile reactions from his or her immediate work environment, then ECSEL Joint Undertaking will take reasonable steps to facilitate such a move. In practice, those members of staff who consider it necessary to move to a different unit may address themselves to the Head of Administration and Finance or to the Executive Director, who will provide them with counselling in order to identify the type of post which fits their profile and professional aspirations.

In urgent and duly justified cases, the protective measure of a transfer in application of Article 7(1) of the Staff Regulations will be taken by the Executive Director.

**Appraisal and reclassification**

Particular care will be taken during staff appraisal and reclassification procedures to ensure that the whistleblower suffers no adverse consequences in this context. Accordingly, the appraisal system⁵ provides for the possibility of the whistleblower to ask that the role of appeal assessor is taken on by the Delegate of the Commission on the Governing Board who is the most senior in grade.

---

Anonymity

In order for ECSEL Joint Undertaking to be able to apply protective measures, the staff member concerned should identify him- or herself as a whistleblower to the institutions\(^6\), and to observe the procedures as outlined above.

The protection which is offered reduces the need and justification for anonymity. Anonymity deprives the investigative services of the possibility of asking the source for clarification or more information and enhances the risk of frivolous, malicious or unreliable information.

For these reasons, anonymous reporting is not encouraged.\(^7\)

Penalties for those taking retaliatory action

No members of staff or managers of ECSEL Joint Undertaking may use their position to prevent other members of staff from complying with their obligation to report serious irregularities.

Any form of retaliation undertaken by a staff member against any person for reporting a serious irregularity in good faith is prohibited. In such cases, disciplinary measures will normally be taken.

Where members of staff consider that they have been the victim of retaliation as a result of the disclosure of a serious irregularity, they shall be entitled to ask for assistance from ECSEL Joint Undertaking under Article 24 of the Staff Regulations, applicable by analogy to temporary agents and contract agents, pursuant to Articles 11 and 81 of the CEOS, and to request that protective measures be adopted. Such requests should be addressed to Head of Administration and Finance.

Limits

As explained above, the whistleblowing provisions are concerned with disclosure of information pointing to fraud, corruption and other comparable serious wrongdoings. They are not intended to be used as substitutes for grievance procedures where staff have some personal interest in - or seek to dictate - the outcome. They are also inappropriate for dealing with disagreements over legitimate policies. Their purpose is to allow the staff member to raise a concern about wrongdoings so that those in charge may look into it.

It should be noted that the protection may be lost if the staff member makes unwarranted or damaging allegations that s/he cannot show to be honest or reasonable. The effect of this is that wherever a staff member is contemplating a disclosure in the sense of these guidelines, it is advisable to let the facts speak for themselves.

Similarly, if the staff member makes the disclosure for purposes of private gain – for instance by selling the information to external parties – he or she will forfeit this protection as that would not be a legitimate disclosure in the sense of the whistleblowing rules.

Finally, if the staff member is him- or herself implicated in the serious irregularities and decides to come forward and report these irregularities, this fact may constitute a significant attenuating circumstance in any ensuing disciplinary proceedings, but it is not a qualifying disclosure in the

\(^6\) The word ‘institutions’ refers to ECSEL JU or other institution(s) to which the whistleblower has reported the irregularity pursuant to point 2 of these Guidelines.

\(^7\) As potential whistleblowers may hesitate to come forward with their identity for fear of retaliatory action, the OLAF’s relevant application on [https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en](https://ec.europa.eu/anti-fraud/olaf-and-you/report-fraud_en) offers the facility to enter into an initially anonymous dialogue with specialised staff before a person decides to come forward and make use of the whistleblowing procedures.
sense of this policy and does not provide him or her with full protection against disciplinary consequences on the basis of the whistleblowing rules.

4. **FEEDBACK TO THE WHISTLEBLOWER**

According to Article 22b of the Staff Regulations, OLAF or ECSEL Joint Undertaking must give the whistleblower an indication of the time needed to take appropriate action. If no action is taken within that period of time, or if the whistleblower can demonstrate that the period of time set is unreasonable in light of all the circumstances of the case, he or she may address his or her concerns to one of the other institutions referred to above.

It should be noted that the whistleblower is entitled to be informed within 60 days of the time needed to take appropriate action, but that it is up to OLAF and/or ECSEL Joint Undertaking to determine the appropriate course of action.

5. **GUIDANCE AND SUPPORT**

While reporting serious irregularities is an obligation under the Staff Regulations, some staff may be reticent to come forward and report their concerns. In order to help staff who are unsure of whether or not certain facts should be reported, ECSEL Joint Undertaking offers confidential and impartial guidance and support to (potential) whistleblowers.

Guidance to potential whistleblowers in an early stage also helps to avoid ill-advised reporting, which may cause frustration to the staff member concerned and may be detrimental to the interests and the reputation of ECSEL Joint Undertaking. This guidance therefore lessens the risks of disclosure-related conflicts.

Experience suggests that this is best carried out by a point of contact not connected with the investigation function of OLAF, taking account of the fact that, in particular, support to whistleblowers and protection against retaliation are essentially the responsibility of ECSEL Joint Undertaking as employer.

The Head of Administration and Finance will provide confidential and impartial guidance on, for example, whether the information in question is covered by the whistleblowing rules, which reporting channel may best be used for the information concerned, and which alternative procedures are available if the information concerned does not qualify for whistleblowing (‘signposting’). They will also be able to tender advice and guidance to staff members on protective measures that the staff member may wish to seek following the reporting.

Naturally, this guidance function is without prejudice to the possibility of staff members to consult their line manager.

In addition, the web-based Fraud Notification System of OLAF gives potential whistleblowers who hesitate to come forward the opportunity to enter into a dialogue with OLAF investigators, which allow these staff members to verify whether the information in their possession fall within the remit of OLAF.

In case of doubt, staff are encouraged to seek the guidance offered to them when contemplating a disclosure under the whistleblowing rules.
6. **ROLE OF MANAGEMENT**

The duty on managers to notify OLAF of information received on the basis of the whistleblowing rules does not of itself discharge them from their own responsibilities to tackle the wrongdoing.

Managers will therefore have to reflect on whether the evidence provided reveals shortcomings that could be redressed or requires other measures in addition to the transmission of the information to OLAF. In particular, if following such information it occurs that a procedural or organisational change could prevent the risk of serious professional wrongdoings in the future, such measures should be considered and, where appropriate, taken as soon as possible. Care should be taken that any such measure does not harm any future OLAF investigation into the reported facts. In case of doubt, managers are therefore advised to consult OLAF before taking any such measures.

7. **COMMUNICATION AND AWARENESS-RAISING**

In order to increase the awareness of the whistleblowing arrangements amongst staff, these guidelines will be given adequate publicity through the internal communication channels in ECSEL Joint Undertaking and will be included in the course material of ECSEL Joint Undertaking’s courses and trainings on ethics and integrity.
Article 22a

1. Any official who, in the course of or in connection with the performance of his duties, becomes aware of facts which give rise to a presumption of the existence of possible illegal activity, including fraud or corruption, detrimental to the interests of the Union, or of conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of officials of the Union, shall without delay inform either his immediate superior or his Director-General or, if he considers it useful, the Secretary-General, or the persons in equivalent positions, or the European Anti-Fraud Office (OLAF) direct. Information mentioned in the first subparagraph shall be given in writing. This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a Member of an institution or any other person in the service of or carrying out work for an institution.

2. Any official receiving the information referred to in paragraph 1 shall without delay transmit to OLAF any evidence of which he is aware from which the existence of the irregularities referred to in paragraph 1 may be presumed.

3. An official shall not suffer any prejudicial effects on the part of the institution as a result of having communicated the information referred to in paragraphs 1 and 2, provided that he acted reasonably and honestly.

4. Paragraphs 1 to 3 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.

Article 22b

1. An official who further discloses information as defined in Article 22a to the President of the Commission or of the Court of Auditors or of the Council or of the European Parliament, or to the European Ombudsman, shall not suffer any prejudicial effects on the part of the institution to which he belongs provided that both of the following conditions are met:

(a) the official honestly and reasonably believes that the information disclosed, and any allegation contained in it, are substantially true; and

---

8 Articles 22a and 22b of the SR are applicable by analogy to temporary agents and contract agents, pursuant to Articles 11 and 81 of the CEOS.
(b) the official has previously disclosed the same information to OLAF or to his own institution and has allowed OLAF or that institution the period of time set by the Office or the institution, given the complexity of the case, to take appropriate action. The official shall be duly informed of that period of time within 60 days.

2. The period referred to in paragraph 1 shall not apply where the official can demonstrate that it is unreasonable having regard to all the circumstances of the case.

3. Paragraphs 1 and 2 shall not apply to documents, deeds, reports, notes or information in any form whatsoever held for the purposes of, or created or disclosed to the official in the course of, proceedings in legal cases, whether pending or closed.
ANNEX 2: WHISTLEBLOWING REPORTING CHANNELS

Staff Member

Option of last resort: external whistleblowing (President of the Commission/CoA, Council/EP/EO)

Internal whistleblowing

Possibility of initial dialogue with specialised staff:
- OLAF’s reporting systems
- Guidance and support from relevant agency’s service or
- with line manager

Feedback

Option 1: Hierarchy/
[management board]

Option 2: OLAF

Feedback
ANNEX 2 - Rules on middle management staff

SECTION 1. GENERAL PRINCIPLES

Article 1: Aims

The purpose of this Decision is to establish a legal framework setting out the internal rules of ECSEL Joint Undertaking concerning:

– procedures for the selection and appointment of middle managers;
– the role and position of heads of unit;
– the arrangements for reassigning heads of unit to non-management functions in certain circumstances;
– the trial period for staff appointed to a middle management function in the ECSEL Joint Undertaking for the first time.

This Decision shall apply to all ECSEL Joint Undertaking services.

Article 2: Middle management functions

1. Middle management functions and staff

Middle management functions shall mean a function which meets both of the following criteria:

– it involves the permanent and continuous management of an administrative unit;
– is referred in Commission Decision on types of post and post titles as head of unit or head of department as well as others equivalent mentioned in this Decision.

A person assigned to a function which satisfies both of these criteria at the same time is thereby a member of the middle management staff.

This means that the functions of head of unit and head of department are hereby defined as middle management functions and are covered by this decision.

For the purposes of this decision, the term head of unit, shall refer to all middle management functions.

2. Functions not covered by this Decision

Advisers are not covered by this decision as they do not carry out management functions.

Deputy heads of unit and heads of sector are not covered by this decision.

1 Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.
Article 3: authority authorised to conclude contracts of employment (‘AACC’) and rapporteurs

1. AACC

Except where otherwise provided for and without prejudice to the Governing Board decision on delegation of the Appointing Authority and AACC powers, the AACC powers according to this decision, including the decisions on appointments to middle management functions whose level has been fixed at AD 12-AD 14 shall be exercised by the Executive Director.

2. Rapporteur

In cases of reassignment to a non-management function the Executive Director shall designate a rapporteur for the procedure. The rapporteur shall be chosen from the established heads of unit who shall not be in any conflict of interest.

Article 4: Role of heads of units

The role of heads of unit is regarded as particularly important. They shall possess specific management (i.e. work organisation, people management and, where relevant, financial resources management) competencies and an appropriate degree of specialist knowledge and technical expertise.

The role and responsibility of heads of unit shall comprise essentially three aspects, including, but not limited to:

– the head of unit shall issue guidelines for policies and actions to his unit on the basis of the mission statement, strategic plan and annual management/work programme of the Agency. He shall define the unit work programme, coordinate work within the unit and with other units and represent the unit at important meetings;

– the head of unit shall be the main channel for the exchange of information between senior management and the unit's members;

– the head of unit shall be directly responsible for the management of the human resources of the unit and, in many cases, also its financial resources.

Article 5: Determining the level of a function and filling it

1) As a general rule, the level of head of unit functions is fixed at AD 9-AD 14 as regards internal and inter-agency publications and AD9/AD12 as regards external publication.

2) For internal and inter-agency publications, the level of a function can be fixed at AD12-AD 14 only by the Executive Director depending on the importance of the tasks, the number of staff reporting to the function in question and/or the level of budgetary resources managed.

3) The functions shall be filled in accordance with the GIPs on temporary staff 2(f). A temporary staff may be reassigned to a head of unit function in the interest of the service in accordance with Article 7(1) of the Staff Regulations when the conditions set out in Article 8(1) and Article 10(1) of this Decision are met.

Article 6: Options to fill a post

Article 2 of the GIPs on temporary staff 2(f) shall apply.
SECTION 2. FILLING HEAD OF UNIR FUNCTIONS AT LEVEL AD 9-AD 14 – INTERNAL, INTER-AGENCY MOBILITY

Article 7: Reassignment and publication of a function

1. Articles 3, 4 and 7 of the GIPs on temporary staff 2(f) shall apply respectively.

2. If a post is to be published, the Head of Administration and Finance shall draw up a vacancy notice that is agreed by the Executive Director and then shall publish it.

3. The vacancy notice may be simultaneously published for transfer and reclassification.

Article 8: Eligibility

1. In the case of reassignment to a middle management function in the interest of the service within the Agency (according to Article 7(1) of the Staff Regulations), the person must:
   - be temporary staff referred to in Article 2(f) CEOS;
   - be in grade AD 9, AD 10, AD 11, AD 12, AD 13 or AD 14;
   - already occupy a middle management function or have occupied such a function in the EU Institutions or Agencies.

Only temporary staff who were appointed to a middle management function on the basis of a selection procedure that was equivalent to the selection procedures applied by ECSEL Joint Undertaking at that time may be reassigned to a middle management function in accordance with this paragraph.

Reassignment shall be excluded for temporary staff who ceased to exercise management duties due to an unsuccessful trial period (Article 17) or due to insufficient managerial ability (Article 20(1)) and for temporary staff who opted out voluntarily from a middle management function before they successfully completed their trial period.

2. In the case of publication of a vacancy notice, applicants must, on the closing date for the receipt of applications:
   - be established temporary staff referred to in Article 2(f) CEOS. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
   - be in grade
   - AD 9, AD 10, AD 11, AD 12, AD 13 or AD 14, or
   - in case of temporary agent of the same agency where the vacancy is to be filled simultaneously for reclassification, to be in grade AD 8 and have a seniority of at least two years in that grade;
   - possess the qualifications specified in the vacancy notice; and
   - possess the competencies set out in the Annex to this Decision.

Article 9: Selection and appointment

1. Selection:
In the case of publication of a vacancy notice, the stages in selection to be followed by the AACC shall be as follows:

(a) Assessment of applications by the pre-selection panel

The Executive Director shall set up a pre-selection panel comprising at least two members of a grade and management function equal or superior to that of the function to be filled, including one member from another Department. Where there are no temporary agents in the agency fulfilling the requirement of management function and grade, the Executive Director may decide to designate officials or temporary agents from another agency or institution who fulfil that condition. The Executive Director may invite other persons to the pre-selection panel as observers. The Executive Director concerned must ensure, whenever possible, that there is a balanced representation of men and women in the pre-selection panel.

Using assessment checklists, the pre-selection panel shall consider all applications received having regard to the vacancy notice. Where appropriate, it shall conduct interviews. It shall draw up a shortlist of the applicants who most correspond to the profile sought, giving reasons for its choices.

(b) Invitation to the interviews with the Executive Director and two members of a grade and management function equal to that of the function to be filled.

The applicants on the shortlist shall be invited to an interview with the Executive Director and the members mentioned above. The Executive Director may decide to invite also other eligible applicants.

(c) Assessment centre

All applicants invited to the interviews with the Executive Director and the other members shall take part in an assessment centre, unless they have already taken part in such an assessment centre in the course of the two years preceding the closing date for the receipt of applications. If an applicant has taken part in an assessment centre within this two-year period, but not within the 18 months preceding the closing date for the receipt of applications, he may at his request be admitted to the assessment centre.

The assessment centre shall evaluate the applicants' potential and shall provide an in-depth analysis of managerial skills, adaptability and other core competencies. It shall comprise individual and/or group exercises as well as indepth interviews focussed on management skills. The result of the assessment centre shall be taken into consideration by the appointing authority.

(d) Interviews conducted by the Executive Director and the members mentioned in point (b).

The Executive Director and the members mentioned in point (b) shall interview the invited applicants.

2. Appointment:

(a) The selected candidate shall be appointed in his current grade, except for candidates in grade AD 8 who shall be appointed in grade AD 9.
(b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 3. SPECIAL PROCEDURE FOR FILLING HEAD OF UNIT FUNCTIONS AT LEVEL AD12-AD 14 – INTERNAL, INTER-AGENCY MOBILITY

Article 10: Eligibility

1. In the case of reassignment to a middle management function in the interest of the service within the Agency (according to Article 7(1) of the Staff Regulations), the person must:
   - be temporary agent referred to in Article 2(f) CEOS;
   - be in grade AD12, AD13 or AD 14;
   - have already occupied a middle management function in the Institutions or Agencies for at least two years.

Only temporary agents who were appointed to a middle management function on the basis of a selection procedure that was equivalent to the selection procedures applied by the ECSEL Joint Undertaking at that time may be reassigned to a middle management function in accordance with this paragraph.

Reassignment shall be excluded for temporary agents who ceased to exercise management duties due to an unsuccessful trial period (Article 17) or due to insufficient managerial ability (Article 20(1)) and for temporary agents who opted out voluntarily from a middle management function before they successfully completed their trial period.

2. In the case of publication of a vacancy notice, applicants must, on the closing date for the receipt of applications:
   - be established temporary staff referred to in Article 2(f) CEOS. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
   - be in grade AD12, AD13 or AD 14, or
   - in case of an official or temporary agent of the same agency where the vacancy is to be filled simultaneously for reclassification, to be in grade AD 11 and have a seniority of at least two years in that grade;
   - have at least two years of experience in a middle management function in the EU Institutions/Agencies;
   - possess the qualifications specified in the vacancy notice; and
   - possess the competencies set out in the Annex to this decision.

---

2 For this eligibility criterion, heads of cabinet and deputy heads of cabinet with two years of experience in those functions are considered to have the requisite experience.
Article 11: Selection and appointment

1. Selection:
   In the case of publication of a vacancy notice, the selection procedure shall be the same as for head of unit functions at grades AD 9-AD14.

2. Appointment:
   a) The Executive Director shall appoint the selected applicant. The selected candidate shall be appointed in his current grade, except for candidates in grade AD 11 who shall be appointed in grade AD 12.
   b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 4: FILLING HEAD OF UNIT FUNCTIONS THROUGH ENGAGEMENT FOLLOWING EXTERNAL SELECTION

SECTION 4.1: TEMPORARY STAFF REFERRED TO IN ARTICLE 2(F) OF THE CEOS

Article 12: General provisions

1. Without prejudice to specific provisions of the present Decision, Articles 11, 13, 14 and 15 of the GIPs on temporary staff 2(f) shall apply.

2. Any selection procedure shall be organised at one single grade out of the grades AD9, AD10, AD11, or AD12.

Article 13: Eligibility

1. On the closing date for the receipt of applications, applicants must:
   – without prejudice to Article 14(1) of the present Decision, fulfil the requirements referred to in Article 13(1) of the GIPs on temporary staff 2(f);
   – possess the qualifications specified in the vacancy notice;
   – possess the competencies set out in the Annex to this Decision.

Article 14: Selection and appointment

1. Without prejudice to Article 9(1) of the present decision, Articles 1, 2 and relevant provisions of Article 3 of the Annex to the GIPs on temporary staff 2(f) shall apply.

2. As regards the minimum number of professional experiences corresponding to each grade, at least two years should have been acquired as a manager.

Article 15: Engagement

1. Article 12 of the GIPs on temporary staff 2(f) shall apply.
SECTION 5. COMMON PROVISIONS CONCERNING THE APPLICATION OF ARTICLE 8(1) OF THE CEOS

Article 16: Duration of contracts and succession of contracts in case of inter-agency mobility

Articles 16 and 17 of the GIPs on temporary staff 2(f) shall apply.

SECTION 6. TRIAL PERIOD

Article 17: Trial period

1. Scope and duration
   All newly appointed heads of unit shall serve a management trial period of nine months as a ‘probationer head of unit’, unless they have already successfully passed such a management trial period in a previous function in the EU institutions as referred in the Article 1(a) paragraph 2 of the Staff Regulations.

2. Training
   Newly appointed heads of unit must have completed a management induction course at the latest three months after having taken up their duties. Management courses listed in the Commission’s training catalogue or offered by the European School of Administration and followed by an applicant during the five years prior to the appointment may be validated by the appointing authority as management induction courses.

3. Assessment
   Continuous assessment shall be ensured through a mid-term review after four months and a final assessment at the end of the trial period. This two-phase evaluation shall be different from the annual report required under Article 43 of the Staff Regulations\(^3\) for all grades and functions and provide the first opportunity to check whether the person being assessed has the qualities needed to carry out the management role effectively.

   The mid-term review and the final assessment shall be drawn up by the reporting officer. In case of unsatisfactory mid-term review and/or final assessment, it/they shall, unless the reporting officer is the Executive Director, be countersigned by a countersigning officer. If there is disagreement, the countersigning officer shall bear final responsibility for these reports.

   The reporting officer shall be the same as the reporting officer in charge of the annual report. The countersigning officer shall, where applicable, be the reporting officer's direct superior.

4. Mid-term review after four months

---

\(^3\) Applicable to temporary staff by virtue of Article 15(2) of the CEOS.
The mid-term review shall be conducted on the basis of a previously agreed statement incorporating objectives and performance indicators (linked to standard management tasks/skills) for the individual and/or the unit which he is managing.

If there is disagreement on the conclusions of the mid-term review, the probationer head of unit may request the Executive Director to designate two heads of unit in the Agency who are the most senior in the highest grade to give their opinions to the Executive Director. The mid-term review, as confirmed or modified by the Executive Director, after receiving this opinion, shall be considered final.

5. Final assessment for temporary agents already in service

The final assessment shall be drawn up no later than one month before the expiry of the management trial period. This final assessment shall provide a formal opportunity to make a definitive judgement as to whether the temporary staff has the necessary managerial ability and can remain in his function.

Where, during the management trial period, a temporary staff member is prevented, by sickness, maternity leave under Article 58 of the Staff Regulations\(^4\) or accident, from performing his duties for a continuous period of at least one month, the Executive Director, may, after hearing the temporary staff member, extend the management trial period by the corresponding length of time. The total length of this period shall in no circumstances exceed 15 months.

The final assessment shall be communicated to the probationer head of unit, who shall have the right to submit his comments in writing within a period of eight working days.

In cases of a reassignment, an internal or an inter-agency mobility, if the trial management period is deemed to have been unsuccessful, the Director, shall propose, subject to establishment plan availabilities and the technical profile of the probationer head of unit, reassignment to a non-management function.

The Executive Director shall take the final decision, after hearing the temporary staff concerned and the Chair of the Governing Board has given its opinion on the Executive Director's proposal.

6. Final assessment for newly recruited heads of unit

For ‘probationer heads of unit’ recruited following an external selection procedure, the final assessment shall incorporate the normal probation report provided for in Article 14(3) of the CEOS. The decision to establish a newly recruited head of unit shall be taken on the basis of this assessment as well as on the basis of elements at the disposal of the AACC relating to the probationer head of unit's conduct with regard to Title II of the Staff Regulations\(^5\).

The final assessment shall be drawn up no later than one month before the expiry of the trial period. Where, during the management trial period, a temporary staff is prevented, by sickness, maternity leave under Article 58 of the Staff Regulations or accident, from performing his duties for a continuous period of at least one month, the Executive Director concerned may, after hearing the temporary staff, extend the

\(^4\) Applicable to temporary staff by virtue of Article 16 of the CEOS.

\(^5\) Applicable to temporary staff by virtue of Article 11 of the CEOS.
management trial period by the corresponding length of time. The total length of this period shall in no circumstances exceed 15 months.

The final assessment shall be communicated to the probationer head of unit, who shall have the right to submit his comments in writing within a period of eight working days. If at the end of the process the probation is deemed to have been unsuccessful, the Executive Director shall propose termination of the employment. The Chair of the Governing Board shall give its opinion on any proposal.

If at the end of the process the probation is deemed to have been unsuccessful, the Executive Director shall terminate the employment contract after hearing the temporary staff concerned.

**SECTION 7: A CAREER IN MIDDLE MANAGEMENT**

*Article 18: Mobility*

The following rules on mobility shall apply.

1. Mobility is encouraged for all heads of unit. This shall in no way restrict the right of the AACC to make use of Article 7(1) of the Staff Regulations (reassignment in the interest of the service).

2. The mobility of heads of unit from horizontal Departments to operational Departments and vice versa – is strongly recommended. Similar moves from horizontal to operational functions (and vice versa) within a given Departments are also encouraged.

*Article 19: Voluntary opt-out*

A head of unit may opt out from a management function at any stage during his career, either by applying for an adviser, senior expert or administrator function (following the publication of this function) or by requesting to be reassigned to a non-management function in the interest of the service (under Article 7(1) of the Staff Regulations). He shall continue to be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations for a period of one year.

*Article 20: Reassignment to a non-management function*

Heads of unit may be reassigned to a non-management function whilst keeping their grade. Reassignment to a non-management function shall be possible in the following cases.

1. Insufficient managerial ability as a head of unit
   (a) In cases of a reassignment, an internal or an inter-agency mobility, reassignment following the trial period.

   A newly appointed head of unit may be reassigned to a non-management function in accordance with Article 17(5).

   (b) Reassignment at any stage during a managerial career.

Procedure to be followed:
Before a decision is taken, the case shall be further assessed by the rapporteur who shall issue an opinion in which it may:

– whenever possible, suggest that the temporary staff be offered another management function. In this case, the temporary staff could be offered additional training related to possible deficiencies in management ability;

– confirm that the temporary staff be reassigned to a non-management function.

Final decision: following the opinion of the rapporteur, the Executive Director shall take the final decision, after hearing the temporary staff concerned.

2. Reassignment in case of revision of the organisation chart or in case of mobility encouraged by Article 18:

(a) Where the function occupied by a head of unit ceases to exist as a consequence of a revision of the organisation chart of the Agency, the Executive Director may, after having examined the possibilities of to a vacant head of unit function in the Agency, reassign him to a non-management function.

3. In the cases referred to in paragraph 2, the temporary staff concerned shall be heard before the decision on the reassignment is taken. The temporary staff concerned shall continue to be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations for a period of one year.

SECTION 8 – SPECIFIC CASES AND FINAL PROVISIONS

Article 21: Seconded heads of unit

1. A function of ‘seconded head of unit’ may be created to make it possible to second a head of unit in the interest of the service (under Articles 37(a) and 38 of the Staff Regulations).

2. The function of seconded head of unit shall be created in the Agency of origin of the person concerned, in accordance with the applicable rules on modification of organisation charts. This function shall automatically cease to exist when, either at the end of the secondment or at the latest 12 months afterwards, the temporary staff is reassigned or appointed to a different function.

3. At the end of the secondment, the seconded head of unit shall return to the Agency of origin and occupy the function of seconded head of unit, pending reassignment in the interest of the service or appointment (following the publication of a function) to a middle management function within 12 months.

If, at the end of that 12-month period, the temporary staff has not been reassigned or appointed to a middle-management function, the Executive Director shall, after hearing the temporary staff, reassign him to a non-management function.

---

6 Applicable to temporary staff referred to in Article (2f) of the CEOS by virtue of Article 51 thereof. 16 As last amended by Decision C(2008) 5028 of 10 September 2008.
4. A seconded head of unit shall be entitled to the benefit provided for in the second paragraph of Article 44 of the Staff Regulations, unless the remuneration carried by the function to which he is seconded exceeds his remuneration as head of unit.
ANNEX 1

COMPETENCIES REQUIRED TO APPLY FOR A MIDDLE MANAGEMENT POST

The list below further details the essential competencies middle managers need to have, acquire or develop, including essential people management skills, in order to perform effectively in their functions and to ultimately enhance organisational performance.

1. **These required core competencies are:**

   General *management* skills, including:

   - The ability to set and revise objectives for the unit within the overall strategic framework and priorities of the Agency;
   - The ability to determine and focus on priorities and to monitor and evaluate the progress made towards achieving the unit's and team members' objectives set, in cooperation with the members of the team;
   - The ability to organise, assign and manage the unit's work among the members of the team and to set them challenging but realistic objectives;
   - The ability to empower members of the team while ensuring that they understand what is expected of them and how their work contributes to the unit’s objectives;
   - The ability to choose co-workers and to build strong teams with complementary strengths suited to the efficient pursuit of the unit’s objectives;
   - The ability to motivate members of the team to achieve the desired results and also to provide regular feedback, acknowledge success and the need for improvement in order to enable them to achieve their objectives and greatest potential;
   - The ability to develop and support career development and learning opportunities for the members of the team.

   • Communication skills
     - The ability to communicate clearly and present complex subjects simply, both orally and in writing, including to the members of the team;
     - The ability to solicit inputs from and listen to staff, partners, and stakeholders.

   • Interpersonal skills
     - The ability to deal with people effectively, respectfully and courteously;
     - The ability to build productive and cooperative working relationships with hierarchy and other units and colleagues;

   • Negotiation skills
The ability to steer discussions and generate the best possible results without compromising productive working relationships with the other parties involved;

- Previous mobility within the institution
  - Proven ability to carry out the functions in different environments and/or overall knowledge of the Institution, gained notably through inter Agency mobility, should constitute an important advantage and might be deemed essential for the appointment to certain head of [unit posts].

2. **TECHNICAL QUALIFICATIONS INCLUDE POINTS OF THE FOLLOWING TYPE:**

Familiarity with administrative, financial and oversight issues

- Temporary staff must have a good knowledge of the administrative and financial circuits within the Agency and, ideally, experience of them. A high degree of competence in handling budgetary resources and/or in organising work, resources and procedures to achieve operational efficiencies and value for money could be of key importance, depending on the post in question.

3. **SPECIALIST KNOWLEDGE COMPRISSES POINTS SUCH AS:**

- Knowledge of EU policies, languages, legislation and programmes, particularly those relevant to the post in question
  - Occupying a head of unit post efficiently and effectively requires possession of these competencies to a high degree. The relative weighting of the various elements will depend largely on the particular features of each post.
Annex 3 - Rules concerning the function of adviser

SECTION 1. GENERAL PRINCIPLES

Article 1: Subject matter and scope

1. The purpose of this Decision is to establish a legal framework setting out the rules of the ECSEL Joint Undertaking concerning:
   – the duties of advisers;
   – the position of adviser in the organisational structure of the ECSEL Joint Undertaking;
   – the procedures for the selection and appointment of advisers;
   – the arrangements for reassigning advisers to functions not appearing in the organisation chart or to the function of senior expert in certain circumstances.

2. This Decision shall apply to all ECSEL Joint Undertaking services.

Article 2: Definition

1. Advisers functions shall be those that meet all of the following criteria:
   – they involve duties that, in view of their horizontal nature (such as coordination, representation, analysis and advice), represent a high added value for the Agency;
   – without prejudice to the exceptions provided for in Article 3(2), they do not involve the direct management of human or financial resources or middle-management tasks;
   – they require special qualities of the person concerned and in particular special expert knowledge and/or special experience and the capacity to provide guidance of high added value.

2. Advisers functions must correspond to a need of the service, which may be permanent or temporary.

3. Advisers shall be appointed at grades AD 13/AD 14 (external publications are excluded).

Article 3: Administrative status

1. Advisers shall in principle be administratively attached to the Executive Director. In exceptional and duly justified cases, they may be attached to a head of unit.

2. Advisers in principle don't exercise hierarchical authority over staff. However, a maximum of three staff members providing administrative support may be directly

---

1 Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.

2 The term ‘head of unit’ refers to all middle management functions.
attached to an adviser. Moreover, advisers may head a small team during a specific mission or to implement a specific project.

3. Each adviser function must have a specific title, which shall appear in the organisation chart, and a full job description.

**SECTION 2. FILLING ADVISER FUNCTIONS – INTERNAL, INTER-AGENCY MOBILITY**

*Article 4: Filling the functions*

The function shall in principle be filled by publication under article 4 and/or 7 of the GIPs on temporary staff 2(f). A temporary staff may be reassigned to an adviser function in the interests of the service (Article 7(1) of the Staff Regulations) when the conditions set out in Article 7(1) of this Decision are fulfilled.

*Article 5: Publication of a function*

In the case of publication, the Head of Administration and Finance shall draw up a vacancy notice that is agreed by the Executive Director and then shall publish it.

*Article 6: Eligibility*

1. In the case of reassignment to an adviser function in the interests of the service within an Agency (in accordance with Article 7 of the Staff Regulations), the person must:
   – be an established temporary staff member referred to in Article 2(f) CEOS not serving their probationary period,
   – be in grade AD 13 or AD 14,
   – already occupy an adviser function or have occupied such a function.

2. Where a vacancy notice is published, candidates must, on the closing date for the receipt of applications:
   – be established temporary staff member referred to in Article 2(f) CEOS not serving their probationary period. As regards inter-agency publication, Article 9 of the GIPs on temporary staff 2(f) shall apply;
   – be in grade
     – AD 13 or AD 14, or
     – in case of a temporary agent of the same agency where the vacancy is to be filled, to be AD 12 and have a seniority of two years in that grade,
   – possess the qualifications specified in the vacancy notice.

*Article 7: Selection and appointment*

1. Selection:

   In the case of publication of a vacancy notice, the stages in selection to be followed by the appointing authority shall be as follows:

   (a) Definition of the job profile

---

3 Applicable to temporary staff by virtue of Article 10(1) of the CEOS.
The vacancy notice shall set out in detail the tasks and duties of the function to be filled, including those in the job description. It shall also specify the minimum qualifications which applicants must possess for their applications to be taken into consideration and any other desirable qualifications.

(b) Assessment of applications by the pre-selection panel

The Executive Director shall set up a pre-selection panel comprising at least two members of a grade equal to that of the function to be filled, including one member from another agency. Where there are no temporary agents in the agency fulfilling the requirement of the grade, the Executive Director may decide to designate officials or temporary agents from another agency or institution who fulfill that condition. The Executive Director may invite other persons to the pre-selection panel as observers. The Executive Director must ensure whenever possible, that there is a balanced representation of men and women in the pre-selection panel.

Using assessment checklists, the pre-selection panel shall consider all applications received having regard to the vacancy notice and the CVs of the applicants. Where appropriate, it shall conduct interviews. It shall draw up a shortlist of the applicants who best correspond to the profile sought, giving reasons for its choices.

(c) Interviews by the Executive Director and two heads of units

The Executive Director and the members mentioned above shall interview the applicants on the shortlist. The Executive Director may decide to interview other eligible applicants.

2. Appointment:

(a) The AACC shall appoint the successful applicant. The selected candidate shall be appointed in his current grade, except for candidates in grade AD 12 who shall be appointed in grade AD 13.

(b) Articles 6(2) and Article 10 of the GIPs on temporary staff 2(f) shall apply respectively to the selected candidates of the same and a different agency.

SECTION 3: REASSIGNMENT OF ADVISERS

Article 8: Reassignment of advisers to a senior expert function

1. Reassignment in case of unsatisfactory performance

A procedure for reassignment to a senior expert function may be launched by the Executive Director if the performance of an adviser has been evaluated as unsatisfactory in the last annual report provided for in Article 43 of the Staff Regulations. It must be launched by the Executive Director if the performance has been evaluated as unsatisfactory in two of the last three annual reports. Furthermore, the procedure may be launched by the Executive Director in exceptional and duly justified cases.

The Executive Director shall take the final decision, after hearing the temporary staff concerned and consulting the Chair of the Governing Board.
2. Reassignment in case of revision of the organisation chart or the function of adviser ceases to exist

Where the function occupied by an adviser ceases to exist as a consequence of a revision of the organisation chart of the Agency, the Executive Director may, after having examined the possibilities of transfer to a vacant adviser function in the Agency and after hearing the adviser, reassign him to a senior expert function.

3. Reassignment in other cases

In other cases, the Executive Director may, with the agreement of the adviser, reassign him to a senior expert function.

SECTION 4 – SPECIFIC CASES AND FINAL PROVISIONS

Article 9: Seconded advisers

1. A function of ‘seconded adviser may be created to permit the secondment of an adviser in the interests of the service (under Article 37(a) and Article 38 of the Staff Regulations, or Article 51 of the CEOS).

2. The function of ‘seconded adviser shall be created in the Agency of origin of the person concerned, in accordance with the applicable rules on modifications to the organisation chart. The function shall automatically cease to exist when, either at the end of the secondment or at the latest 12 months afterwards, the official is reassigned or appointed to a different function.

3. At the end of the secondment, the seconded adviser shall return to the Agency of origin and occupy the function of seconded adviser pending reassignment in the interest of the service or appointment (following the publication of a function) to an adviser function within 12 months.

If, at the end of that period, the temporary staff member has not been reassigned or appointed to an adviser function, the Executive Director shall, after hearing the official, reassign him to a senior expert function.
ANNEX 4 - Non-application of the Commission Decision on the maximum duration for the recourse to non-permanent staff in the Commission services

Article 1

Article 2
ANNEX 5 – Rules on learning and development

Chapter I – The ECSEL JU’s learning and development policy

Article 1 – Adoption

The Executive Director shall adopt a learning and development policy (‘ECSEL JU’s Policy’).

Article 2 – Implementation

The implementation of the ECSEL JU’s policy shall be delegated to the Head of Administration and Finance which may publish further administrative instructions which may include detailed provisions and practical procedures for the application of working time provisions in the field of training, as provided for under Article 9 (2) of the Commission Decision C(2014) 2502 of 15 April 2014 on working time as applied by analogy by ECSEL Joint Undertaking as from 01 June 2014.

Article 3 - Consultation

The Units shall be consulted on the implementation of the ECSEL JU’s Policy.

Article 4 – Modification of the Commission’s Decision on leave

Article 2 of the Commission’s Decision C(2016) 3855 on training on the own initiative of the member of staff shall apply by analogy to ECSEL Joint Undertaking.

Chapter II – Rules on access to training organised or paid for, or both, by ECSEL Joint Undertaking

Article 5 – Subject matter and scope

1. This Chapter defines the training for which an explicit approval is required prior to attendance and the criteria for granting that approval.

2. This Chapter applies to training organised or paid for, or both, by ECSEL Joint Undertaking.

Article 6 – Definitions

1. For the purpose of this Chapter, the following definitions shall apply:

---

1 Article 2 provides the following: ‘Point II.b.11 of the Annex to the Commission’ Decision of 16 December 2013 on leave C(2013) 9051 final shall be removed’.
a) ‘On-the-job learning’ means learning which takes place while carrying out duties which form part of the job description and may include, for example, learning from direct experience, from colleagues, from knowledge-sharing and from information on-line or in printed material.

b) ‘Training’ means all learning activities which take place outside the exercise of the standard duties of the job and may include, for example:
   i. participating in classroom training, e-learning, workshops, speaker events or conferences inside or outside the Agency;
   ii. following blended learning modules;
   iii. study visits;
   iv. coaching.

Article 7 – Administrative choice between on-the-job learning and training

1. The line manager shall decide whether the learning activity is on-the-job learning or training. In case of doubt the line manager shall take the decision, consulting his or her own hierarchy or staff of the HR function, or both, as appropriate.

Article 8 – Prior and explicit approval

1. Training shall be subject to prior and explicit approval of the line manager if:
   (a) it is primarily undertaken during working time or
   (b) it has a direct or indirect financial cost for the ECSEL JU.

2. Where training requires prior and explicit approval from the line manager, the line manager may, except in case of language training, grant approval only if the training is:
   (a) necessary for the current job as defined in particular by the job description or the objectives;
   (b) necessary for future professional development.

   Time spent in such training shall be credited in the balance of working time.

   When granting approval, the manager shall specify whether the training falls under point (a) or point (b). If the training request does not fall in either of those two categories the line manager shall refuse it.

3. In the particular case of language training, by derogation from paragraph 2, prior and explicit approval may be granted by the line manager if the training is:
   (a) essential for Article 45(2) of the Staff Regulations as well as Articles 54 and 85 of the CEOS, namely demonstration of the third language;
   (b) necessary for the current job, as defined in particular by the job description or the objectives, or concerns an official language of the host country / of the place of employment which is necessary for integration in the host country and is an official language of the EU;
   (c) necessary for the work and objectives of the ECSEL JU;

   In cases where the learning activity is considered to be a combination of training and on-the-job learning provisions of this Decision regarding training shall apply.
(d) necessary for future professional development.

When granting approval, the manager shall specify whether the training falls under any of points (a) to (d). If the training request does not fall in any of those four categories, the line manager shall refuse it.

4. When deciding on the training request, the line manager shall, in addition to the criteria laid down in paragraph 2 and paragraph 3, take into account the timing and the cost-benefit of the training.

5. Where a learning management system exists in the Agency and requests are made using the system, approvals and refusals shall also be made using that system. In other cases, replies to written requests shall be made in writing. Negative decisions shall be justified and transmitted to the HR function.

**Article 9 – Language training in the personal interests of the staff member and in the interest of multilingualism**

In the interest of multilingualism and when it is also in the personal interests of the staff member, participation in language training may be authorised by the line manager, even if it does not meet the criteria set out in Article 8, paragraph 3. In such cases the following conditions shall be fulfilled:

(1) participation may only be offered when the additional costs are negligible;

(2) training may be followed during core hours if the manager agrees; and

(3) time spent in such training as well as travelling to and from the course shall not be credited in the balance of working hours.

**Article 10 – Confirmation of participation**

1. In addition to the explicit prior approval of the line manager to participate in the training courses referred to in Articles 8 and 9, the following conditions shall be fulfilled:

   (a) the necessary budget shall be available; and

   (b) there shall be sufficient places available on the training course.

In the specific case of language training, priority shall be given to requests made in accordance with Article 8.3 (a), then to requests made in accordance with Article 8.3 (b), then to requests made in accordance with Article 8.3 (c), then to requests made in accordance with Article 8.3 (d), then to requests made in accordance with Article 9.

For other cases, priority shall be given to requests made in accordance with Article 8.2 (a).

2. Additional criteria may be set by the Head of Administration and Finance responsible for organising the course or managing the corresponding budget line to ensure the cost-effectiveness of the training. These criteria may concern in particular the profile of the population targeted by the training. Any such criteria shall be published in due time.
Chapter III – Training on the initiative of the staff member

Article 11 – Support for training on request of the staff member

1. The ECSEL JU may support training activities undertaken on the initiative of the staff member’s if those activities:
   (a) are not organised by the ECSEL JU; and
   (b) are financed by the staff member themselves, subject to the possibility of financial support under the conditions described below; and
   (c) take place during the free time of the staff member, subject to the possibility of obtaining special leave in compensation under the conditions described below.

These rules do not concern training organised and paid for in full by ECSEL Joint Undertaking;

2. ECSEL Joint Undertaking may support the activities referred to under point 1:
   (a) By granting special leave, determined as stipulated in Article 13 and/or;
   (b) By the partial reimbursement of enrolment fees, determined as stipulated in Article 13.

Article 12 – Eligible training activities

1. The only training activities deemed eligible within the meaning of this Chapter are those relating to the acquisition, perfecting or updating of professional knowledge or skills or an examination to test this knowledge or skills.

2. Activities eligible for financial support or support in the form of special leave must be in the interest of the service, i.e. they must meet at least one of the following criteria:
   (a) be relevant to the duties performed by the person in his/her department;
   (b) be relevant for career development at the Agency.

The training activity is not eligible if the person concerned has already participated in an identical or equivalent activity.

Article 13 – Conditions for granting special leave and/or financial support to attend training or take an examination on the staff member’s own initiative

1. Staff members applying for special leave and/or financial support for training on their own initiative must submit a request at least one month before the deadline for registering for the training. Applications for special leave must specify the place, dates and times of the courses or examinations to be taken. Where training is spread over several years, one application should be made per year.

2. As regards special leave, the Executive Director shall decide on the request, taking into account the following criteria:
   a) the value of the training for the department or the ECSEL JU;
   b) the absence of possible alternatives more relevant for the ECSEL JU, such as, for example, internal training;
   c) the opinion of the line manager;
d) the opinion of the Head of Administration and Finance;
e) compliance with the deadlines for submission of the application;
f) the available budget (in relation to the request for financial support).

Once the application has been approved, the person concerned is entitled to financial support and/or special leave for training on their own initiative, provided they can supply the supporting documents referred to in Article 13.3.2. The special leave is credited once these supporting documents have been provided. The special leave is granted to compensate for the staff member’s participation in the course and/or participation in examinations, under the conditions laid down in Article 13.2.1 To obtain a financial contribution for attending external training on the staff member’s own initiative, the staff member, once the training has been completed, must submit a request for partial reimbursement to the Head of Administration and Finance in line with the conditions foreseen in Article 13.3.1.

Special leave for training is not granted for the preparation of theses, dissertations, examinations, courses or other.

3. The staff member attending a training activity on their own initiative may be granted special leave calculated as follows:
   a) For classroom training, special leave of up to half the number of class hours;
   b) For any face-to-face components of distance learning courses (including e-learning), special leave of up to half the number of hours of classroom training;
   c) For distance learning courses (including e-learning), one day of special leave per examination or mandatory test passed on production of a certificate attesting to the fact.

In addition, the staff member may, in order to take part in examinations relating to training that meets the criteria set out in Articles 11 and 12 and 13.1.2, qualify for special leave up to the number of days (half or full days) required to take part in the examination.

The line manager shall recommend to the Executive Director, the appropriate number of days of special leave, bearing in mind the above rules and the interest of the ECSEL JU.

The aggregation of periods of special leave granted under this Article may not exceed fifteen days per year. No travelling time can be granted for special leave. Special leave granted but not yet used at the end of the year is carried over automatically once to the following year.

4. To qualify for special leave to attend training, the staff member must present to the AIPN responsible for individual special leave, at the end of the training or, for training activities spread over a number of years, at the end of each year, a statement showing the number of hours of participation in courses and examinations, issued by the educational establishment concerned.

5. To obtain a financial contribution for attending external training on the staff member’s own initiative, for which approval has been given under 13.1.2 above, the staff member, once the training has been completed, must submit a request for partial reimbursement to the Head of Administration and Finance using the appropriate form. The information specified in the form provided for this purpose, such as the programme, certificate of attendance or successful completion, registration fees and proof of payment should be attached to each request.
The request must reach the Head of Administration and Finance no later than 3 months after the end of the training.

6. The ECSEL JU’s financial contribution relates only to registration and examination fees under the conditions specified below, and excludes, in particular, travel expenses between the place of employment and the place where the training is held, and subsistence expenses.

Subject to the availability of funds, registration and examination fees relating to training followed on the staff member’s own initiative in the interests of the service can be reimbursed by the Agency at a rate of 50%, up to a maximum of 1 500 EUR per year.

The amounts corresponding to the expenses to be reimbursed are paid into the account used for salary payments, following participation in the training, on the basis of the attendance certificate, a receipted invoice or any other proof of payment, and the other documents required in the form referred to in Article 13.3.1.

Article 14 – Justified refusal

A refusal to grant special leave or financial support for training on the applicant’s own initiative must be substantiated and the applicant informed of the reason.
ANNEX 6 - Rules on types of post and post titles

Article 1

In accordance with Article 5(4) of the Staff Regulations, the tables establishing the equivalence between the types of post and the post titles used for ECSEL Joint Undertaking temporary staff, which are contained in the Annex to this Decision, are hereby approved.

ANNEX

A. Types of post

<table>
<thead>
<tr>
<th>Type of post</th>
<th>Function group / Grade</th>
<th>Post title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Director</td>
<td>AD 14 – AD 15</td>
<td>Executive Director</td>
</tr>
<tr>
<td>Adviser or equivalent</td>
<td>AD 13 – AD 14</td>
<td>Adviser</td>
</tr>
<tr>
<td>Head of Unit or equivalent</td>
<td>AD 9 – AD 14</td>
<td>Head of Unit.</td>
</tr>
<tr>
<td>Administrator</td>
<td>AD 5 – AD 12</td>
<td>Administrator</td>
</tr>
<tr>
<td>Senior Assistant</td>
<td>AST 10 – AST 11</td>
<td>Senior Assistant</td>
</tr>
<tr>
<td>Assistant</td>
<td>AST 1 – AST 9</td>
<td>Assistant</td>
</tr>
<tr>
<td>Secretary/Clerk</td>
<td>SC 1 – SC 6</td>
<td>Secretary/Clerk</td>
</tr>
</tbody>
</table>
### B. Transitional types of post

<table>
<thead>
<tr>
<th>Type of post</th>
<th>Function group / Grade</th>
<th>Post title</th>
</tr>
</thead>
<tbody>
<tr>
<td>Senior Administrator in transition</td>
<td>AD 14</td>
<td>Senior Administrator in transition</td>
</tr>
<tr>
<td>Administrator in transition</td>
<td>AD 13</td>
<td>Principal Administrator in transition</td>
</tr>
<tr>
<td>Senior Assistant in transition</td>
<td>AST 10 – AST 11</td>
<td>Senior Assistant in transition</td>
</tr>
<tr>
<td>Assistant in transition</td>
<td>AST 1 – AST 9</td>
<td>Assistant in transition</td>
</tr>
<tr>
<td>Administrative Assistant in transition</td>
<td>AST 1 – AST 7</td>
<td>Administrative Assistant in transition</td>
</tr>
<tr>
<td>Support Agent in transition</td>
<td>AST 1 – AST 5</td>
<td>Support Agent in transition</td>
</tr>
</tbody>
</table>
ANNEX 7 - Rules setting up a Staff Committee

Article 1 — Scope

1. A Staff Committee (hereinafter 'the Committee') is hereby created.

2. This Decision governs the composition and functioning of the Committee within ECSEL Joint Undertaking.

3. The Committee represents staff covered by the CEOS. These staff comprise temporary staff, contract staff and other categories of staff, if any, referred to in Article 1 of the CEOS. Collectively, these staff are hereinafter referred to as 'the staff', unless otherwise specified.

Article 2 — Tasks

1. The Committee shall represent the interests of the staff vis-à-vis ECSEL Joint Undertaking and maintain continuous contact between ECSEL Joint Undertaking and its staff.

2. The Committee shall contribute to the smooth running of the ECSEL JU by providing a channel for the expression of opinion by the staff.

3. The Committee shall bring any difficulty that has general implications concerning the interpretation and application of the Staff Regulations and the CEOS to the notice of:
   - the Executive Director or
   - other persons designated by the Executive Director; or, exceptionally,
   - in specific, duly justified cases, the Governing Board.

   The Committee may be consulted on any difficulty of this kind.

4. The Committee shall submit to the Executive Director suggestions concerning the organisation and operation of the ESCEL JU’s services and proposals for the improvement of staff working conditions or general living conditions.

5. The Committee shall participate in the management and supervision of social welfare bodies set up by the ESCEL JU in the interests of its staff. It may, with the consent of the Executive Director, set up such welfare bodies.

6. The Committee shall be consulted on implementing rules giving effect to the Staff Regulations and to the CEOS before the Governing Board decide on their application within the ESCEL JU.

7. The Committee shall exercise any other role provided for in the Staff Regulations, in implementing measures to the Staff Regulations/CEOS and in any act adopted by the the ESCEL JU.
Article 3 — Composition

1. The composition of the Committee, as set out below, shall, as far as possible, reflect the composition of the ECSEL JU’s staff, in particular as regards the categories of staff.

2. The Committee shall consist of three full members.

3. If there are enough candidates, there may be up to an equivalent number of alternates. The alternate member shall replace the full member in the latter’s absence.

Article 4 — Terms of office

1. The term of office of the Committee shall be three years.

2. In the event of the Committee collectively resigning or a motion of no-confidence in it being passed, new elections shall be organised within one month.

3. If the Committee's term of office expires before a new Committee has been elected, the sitting members shall remain in office until replaced by the newly elected members. This period shall not be longer than six months.

Article 5 — Membership

1. The duties undertaken by members of the Committee shall be deemed to be part of their normal service in the ECSEL JU. The fact of performing such duties shall in no way be prejudicial to the person concerned.

2. The term of office of a member of the Committee shall cease upon death, resignation from the Committee, or termination of employment with the ECSEL JU.

3. Membership of the Committee does not constitute special grounds for extending a time-limited employment contract.

4. A member of the Committee who changes function group or category of staff during his or her term of office shall remain in office until the term of the Committee expires.

5. Should the term of a full member of the Committee end prematurely, his or her office shall be attributed to the alternate member with the highest number of votes at the last election.

Article 6 — Functioning

1. The Committee shall elect a Chair by a majority of its full members.

2. The Committee shall adopt its own rules of procedure, which shall be notified to the Executive Director and to the staff. It may also determine the distribution of duties among its members.

3. The Committee shall meet at least four times a year.
4. The Committee and the Executive Director shall meet at least two times a year and at the request of the Committee or the Executive Director, at any time on any urgent matter.

5. The Committee shall convene a general meeting of staff at least once during its term of office in order to present a report on its activities and propose its future action plans.

6. Meetings of the Committee shall be competent to transact business only where at least the majority of its full members are present or represented by alternates. If the quorum is not reached, the meeting shall be reconvened by means of a letter or an email sent to all full members and alternates in accordance with the rules of procedure.

7. Decisions shall be taken by a majority of full members present or represented by alternates.

Article 7 — Consultation

1. If consulted, the Committee shall have a minimum period of 15 working days to declare its position on relevant matters.

2. If no opinion is delivered within the period prescribed, the ECSEL JU shall take its decision.

Article 8 — Facilities at the Committee’s disposal

1. Subject to the agreement of the Executive Director, the Committee shall be entitled to make use of the ECSEL JU’s facilities in order to perform its duties and inform staff.

2. Missions carried out by members of the Committee, in the exercise of their duties, shall be reimbursed according to the standard rules applied by the ECSEL JU, including budgetary limitations.

Article 9 — Electoral rules

1. The conditions for electing the Committee shall be laid down as rules of electoral procedure at a general meeting of the staff of the ECSEL JU. These conditions shall ensure, to the extent possible, that staff of all categories are represented in the Committee.

2. The members of the Committee shall be elected by a secret ballot of:
   − staff members covered by the CEOS whose contracts are for an indefinite period or for one year or more; and
   − staff members covered by the CEOS whose contracts are for less than one year, provided they have been employed by the ECSEL JU for at least six months.

3. A staff member, covered by the CEOS, with an indefinite contract or whose contract is for one year or more shall be entitled to stand for election to the Committee.

4. Elections shall be valid only if two thirds of those entitled to vote take part in the voting. If this proportion is not attained, the second vote shall be valid if the majority of those entitled to vote take part in the voting. The second vote shall be organised immediately after the first one.
5. The list of the Committee's members shall be brought to the attention of all the ECSEL JU's staff in a suitable form.
Annex 8 - Measures concerning leave on personal grounds for officials and unpaid leave for temporary and contract staff of the European Union

Chapter I – Provisions for temporary and contract staff

Title 1 General provisions

Article 1 – Conditions for granting unpaid leave

Unpaid leave may be granted by the authority authorised to conclude contracts (‘AACC’) at the request of the temporary or contract staff concerned (‘staff member’). The AACC shall take a decision on granting unpaid leave after consulting the staff member's immediate superiors, having examined the request in detail and taken into account all relevant factors, in particular the reason for the leave, its duration and the immediate needs of the service. The staff member shall be notified of his precise obligations when the decision is taken to grant or extend unpaid leave.

Article 2 – Professional activity

1. A staff member who, during unpaid leave, envisages engaging in a professional activity or changing from the professional activity already authorised, must obtain prior permission from the AACC pursuant to Article 12b of the Staff Regulations, and in accordance with the rules applicable within the ECSEL JU on outside activities and assignments.

2. In accordance with these rules, such permission shall not be granted to a staff member for the purpose of his engaging in an occupational activity, whether gainful or not, which involves lobbying or advocacy vis-à-vis the ECSEL JU and which could lead to the existence or possibility of a conflict with the legitimate interests of the ECSEL JU.

3. The Joint Committee shall be informed of the decisions that have been taken by the AACC pursuant to Article 12b of the Staff Regulations.

Article 3 – Link with the ECSEL JU

1. During unpaid leave, the staff member shall maintain a link with the Head of Administration and Finance for the purposes of approving a request for extending that leave or for engaging in a professional activity. If, during unpaid leave, reorganisation takes place entailing transfer of the staff member’s former tasks to another Agency, the staff member shall come under the new Agency to which the tasks have been assigned in accordance with the legal act(s) governing that transfer of the staff member’s former tasks.

---

1 Applicable to temporary and contract staff by virtue of Articles 11 and 81 of the CEOS respectively.
2 See footnote 3.
2. The staff member shall inform the ECSEL JU of his contact details during his unpaid leave and keep this information updated at all times.

**Article 4 – Career development**

During unpaid leave, a staff member shall not be entitled to advancement to a higher step in grade and shall not be entitled to reclassification in grade.

**Title II Specific provisions for temporary staff referred to in Article 2(f) of the CEOS with a contract for an indefinite period**

**Article 5 – Duration**

1. In accordance with Article 52 of the CEOS, the duration of unpaid leave requested by a staff member shall be restricted to one year, extendable several times for one year. The total duration of unpaid leave may not exceed twelve years over a staff member’s whole career.

2. The duration of unpaid leave shall not be less than one month. However, for major family reasons, unpaid leave may be granted for a period of 15 days if there are no other possibilities of reducing working time (parental leave, family leave or part time working).

3. Other than in exceptional cases (serious illness of a close relative, election to public office, etc.), unpaid leave shall start on the 1st or 16th of the month and end on the 15th or last day of the month.

4. If the temporary staff member requests unpaid leave to serve a term in public office, that leave shall be restricted to the duration of the term of office.

**Article 6 – Vacancy of posts**

A post which is unoccupied following departure on unpaid leave for a period of six months or more shall be considered vacant from the first day of that unpaid leave.

**Article 7 – Extension**

Extension of unpaid leave must be applied for by the staff member two months before expiry of the current period and may be granted by the AACC, provided that the conditions set out in Article 5 are met.

**Article 8 – Return to work**

At the latest three months before the end of the unpaid leave, and if the staff member has not already submitted an application to return to work, the Head of Administration and Finance shall contact the staff member and request a written notification of his wish to extend his unpaid leave or to return to work, in which case he should provide an up to date curriculum vitae which includes details of any professional activity engaged in and new knowledge acquired while on leave.
In order to facilitate the return to work and the identification of the appropriate post, the Head of Administration and Finance shall take the measures necessary for the staff member, on expiry of period of unpaid leave, to return to work in the Agency in the first vacant post in his function group that corresponds to his abilities. The staff member application shall be examined as a priority before any filling of the posts. The vacant post may only be filled by another person if the staff member returning to work does not possess the abilities required for the post to be filled or if he has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest.

In order for the ECSEL JU to assess the existence of such a conflict of interest, the staff member shall prior to his reinstatement, inform the AACC, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the AACC to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulations; such measure may not, however, prevent the reinstatement of the staff member. The assessment carried out by the AACC shall be made considering the situation of the staff member after his reinstatement.

Article 9 – Termination of contract

A staff member who has asked to return to work may refuse the first offer of a post corresponding to his function group; in the event of a second refusal, employment may be terminated by the ECSEL JU without notice. The same procedure applies to a staff member who has reached the cumulative total of years of unpaid leave provided for in Article 5(1) or who can no longer claim the exemptions set out in Article 5(4) and who does not apply to return to work.

Article 10 – Secondment

A staff member on unpaid leave who is seconded in the interests of the service shall return to work in the ECSEL JU. The staff member's rights to advancement in step and eligibility for reclassification shall recommence from the date on which secondment takes effect.

At the end of the secondment period, the staff member shall either:

• apply to return to work in accordance with Article 8 above;
• apply for a new period of unpaid leave, provided that the conditions for granting it are met;
• terminate his contract of employment under conditions referred to in Article 47 of the CEOS.

2 Applicable to temporary staff by virtue of Article 11 of the CEOS.
Title III Specific provisions for other temporary staff

Article 11 – Duration

1. In accordance with Article 17 of the CEOS, the duration of unpaid leave requested by a staff member shall not exceed one quarter of the length of time already worked by the servant or three months if the servant’s seniority is less than four years or twelve months in other cases; such leave may not exceed twelve months over the whole of his career\(^3\). The period of unpaid leave may not exceed the duration of the employment contract still to run.

2. Paragraphs 2 and 3 of Article 5 shall apply by analogy.

3. If the staff member requests unpaid leave to serve a term in public office, that leave shall be restricted to the duration of the term of office and shall not exceed the duration of the employment contract still to run.

Article 12 – Extension

Extension of unpaid leave must be applied for by the staff member two months before expiry of the current period and may be granted by the AACC, provided that the conditions set out in Article 11 are met.

Article 13 – Return to work

1. At the end of unpaid leave, the staff member shall return to work in the post occupied before departure\(^4\), subject to the examination by the AACC whether the staff member has a personal interest, in particular a family or a financial interest, or represents any other interests of third parties which would impair his independence in the course of his duties in the specific post, such as to lead to an actual or potential conflict of interest.

2. In order for the ECSEL JU to assess the existence of such a conflict of interest, the staff member shall, prior to returning to work, inform the AACC, using a specific form, of any personal interest, in particular a family or a financial interest, or representation of any other interests of third parties such as described above, in order to allow the AACC to take any appropriate measure as provided for in Article 11a(2) of the Staff Regulation.

Article 14 – Termination of contract

Where a staff member does not take up his duties again at the end of unpaid leave, his absence shall be regarded as unjustified and the AACC shall terminate the contract pursuant to Article 47 of the CEOS.

---

\(^3\) Without prejudice to Article 5(1).

\(^4\) In case of the Agency reorganisation, the staff member shall be reintegrated on the post which has been moved.
Article 15 – Secondment of temporary staff referred to in Article 2(f) of the CEOS

A staff member on unpaid leave who is seconded in the interests of the service shall return to work in his Agency. The staff member's rights to advancement in step and eligibility for reclassification shall recommence from the date on which secondment takes effect.

At the end of the secondment period, the staff member shall either:

- apply to return to work in accordance with Article 13 above;
- apply for a new period of unpaid leave, provided that the conditions for granting it are met;
- terminate his contract of employment under conditions referred to in Article 47 of the CEOS.

Title IV Specific provisions for contract staff

Article 16 – Contract staff

Title III shall apply mutatis mutandis to all contract staff, except Article 15.
Authorisation to engage in an outside activity, whether gainful or not, or carry out an assignment outside the Union

(Article 12b of the Staff Regulations and Articles 11 and 81 of the CEOS)

**APPLICANT**

<table>
<thead>
<tr>
<th>Name/first name</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel No</td>
<td></td>
</tr>
<tr>
<td>Administrative status (temporary staff/contract staff)</td>
<td></td>
</tr>
<tr>
<td>Grade</td>
<td></td>
</tr>
<tr>
<td>Unit</td>
<td></td>
</tr>
<tr>
<td>Description of duties at the ECSEL JU</td>
<td></td>
</tr>
<tr>
<td>Activity at the ECSEL JU (full-time/part-time)</td>
<td></td>
</tr>
</tbody>
</table>

**PLANNED ACTIVITY**

| Name of the organisation in which activity is to be exercised |  |
| Address |  |
| **Type of activity** (e.g. teaching, conference, seminar, other) |  |
| Place in which the activity is to be carried out |  |
| The activity is to be carried out |  |

1. outside normal working hours: • evening • Saturday • Sunday
2. during normal working hours (give dates and times): .................................

For 1 and 2, indicate the period: from ......................................... to ......................................

Possible conflict of interests

1. Does the organisation have a financial and/or a contractual relationship with the ECSEL JU? YES/NO

If YES, give details (on a separate sheet of paper if necessary)

........................................................................................................................................

........................................................................................................................................

........................................................................................................................................

2. Is there any direct and/or indirect link between the activity and your duties at the ECSEL JU? YES/NO

If YES, give details (on a separate sheet of paper if necessary)

Absences

The activity will entail a planned/likely total absence of ........ working day(s), including travel time.

Will this absence be covered in its entirety by a request for annual leave? YES/NO

(if NO) special leave of ....... day(s) is requested.

In the case of an educational activity

Total number of teaching hours to be worked: .................................................................

i.e ..........hours/week or.......hours/month.

Financial arrangements

Will remuneration or compensation be provided for:

1. the activity itself? (total net amount) ........................................................................

2. travel expenses? YES/NO (if YES, the proposed amount) ........................................

3. subsistence expenses? YES/NO (if YES, the proposed amount) ..........................

........................................................................................................................................

1 The special leave may not be more than half the working days involved. No special leave will be
than reimbursement of travel and subsistence expenses is provided (see the Commission decision of 28 April 2004
Publication

Will the above activity result in a publication? YES/NO

If YES, give details of the financial arrangements: ..............................................................

SIGNATURE: .................................................................................................. DATE: .................

OPINION OF IMMEDIATE SUPERIOR

Is the activity of benefit to the ECSEL JU?

YES/NO If not, explain why: ........................................................................................................

Application approved/Application not approved

If not approved, give reasons: ........................................................................................................

NAME/FIRST NAME: ..................................................POSITION:

SIGNATURE: .......................................................... DATE:

DECISION OF THE APPOINTING AUTHORITY

Activity: authorised from .................. to ..................

NB: the maximum annual ceiling for net remuneration for all external activities combined is €10,000

refused: give the grounds.................................

Special leave is granted for ......... day(s): YES/NO

NAME/FIRST NAME: ..................................................POSITION: .................

SIGNATURE: .......................................................... DATE: .........................

6. Authorisation is valid only for the period indicated, which may not exceed one year. Any
extension beyond one year or any renewal requires a new request to be presented at least two months before the expiry of the period.
COMMISSION DECISION

of 29.6.2018

on outside activities and assignments and on occupational activities after leaving the Service
COMMISSION DECISION

of 29.6.2018

on outside activities and assignments and on occupational activities after leaving the Service

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Whereas:

(1) It is necessary to give guidance on the application of the Staff Regulations of Officials (the ‘Staff Regulations’), and the Conditions of Employment of Other Servants of the European Union (the ‘CEOS’), laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68\(^1\), namely, the second and fourth paragraphs of Article 11, Article 11a, Article 12, Article 12b, Article 15, Article 16, Article 17, Article 17a, Article 19, Article 55(1) of the Staff Regulations, Articles 13(2) and 40 of Annex VIII to the Staff Regulations, and Articles 11, 17, 81 and 91 of the CEOS.


(3) The Commission adopted on 16 December 2013 Decision C(2013) 9037\(^2\) on outside activities and assignments to take into account the considerably strengthened provisions on activities involving lobbying and/or advocacy with respect to conflict of interest introduced in the Staff Regulations on 1 January 2014, while respecting the principle of proportionality.

(4) When issuing a decision on outside activities and assignments and on occupational activities after leaving the service, the Appointing Authority should pay due regard to the principle of proportionality. Therefore, its decisions should not entail limitations that are not necessary and that would not genuinely meet the objective of protecting the interests of the institution as defined in the Staff Regulations and CEOS.

(5) The practical application of the previous rules on outside activities and assignments has shown that certain provisions need to be adapted in the light of changing circumstances and that they require a number of clarifications.

(6) Prior permission from the Appointing Authority is required to engage in outside activities during active service.

(7) Staff members in active service regularly request permission to engage in outside activities which will clearly not interfere with the performance of their duties and are clearly not incompatible with the interests of the institution. In such cases, prior permission can therefore be deemed to be granted.

---

\(^1\) OJ L 56, 4.3.1968, p. 1.

At the same time, certain outside activities, by their very nature, are liable to interfere with the performance of the staff member’s duties and/or are incompatible with the interests of the institution and should therefore be prohibited.

Certain activities, notably commercial activities giving rise to modest revenues, are prohibited under the previous rules. Experience has shown that the compatibility with the performance of the staff member’s duties and the interest of the service of such activities should be subject to case-by-case analysis rather than a blanket ban. Any such analysis should take account of the changes that have occurred in the statutory composition of the Commission’s staff.

The maximum remuneration a staff member may earn when engaging in an outside activity should be reviewed, given that the ceiling for such remuneration was not reviewed at the time of adoption of Decision C(2013) 9037 and remains the same as the one defined by Decision C(2004) 1597 of 28 April 2004.

The fact that staff members sometimes need to engage in outside activities in order to maintain their professional skills and/or upgrade their qualifications, as required by the interests of the service, should be formally recognised.

All the actors involved in the procedure shall act with celerity so as to respect the former staff member’s fundamental right to engage in work and to pursue a freely chosen or accepted occupation.

Staff members leaving or having left active service are subject to Article 16 of the Staff Regulations, which requires them to inform the institution of their intention to engage in an occupational activity, whether gainful or not, during the first two years of leaving the service.

Practice has shown that the concept of ‘occupational activity’ in the meaning of Article 16 of the Staff Regulations requires clarification.

The obligations of staff members or former staff members benefiting from an invalidity allowance or invalidity pension should be clarified.

Staff members who intend to perform an activity whether in service, on leave on personal grounds or after having left the service have to be reminded of all relevant provisions of the Staff Regulations which apply to the concerned activity, in addition to the provision requiring that the Appointing Authority is informed or notified of the activity.

Special advisers are not covered by the present Decision.

For reasons of clarity, legal certainty and transparency, Commission Decision of 16.12.2013 on outside activities and assignments and occupational activities after leaving the service should be replaced by this Decision.

HAS DECIDED AS FOLLOWS:
TITLE ONE: SCOPE AND DEFINITIONS

Article 1
Scope and definitions

This Decision shall apply to all Commission staff covered by the Staff Regulations or by the CEOS, with the exception of special advisers. For seconded national experts (SNEs), the Commission Decision C(2008)6866 of 12 November 2008, and in particular Article 7 thereof, applies.

For the purposes of this Decision, the following definitions shall apply:

(a) An ‘outside activity’ as referred to in Article 12b of the Staff Regulations means any activity, paid or unpaid, that:
   (i) is not part of the staff member’s duties at the Commission, including those covered by a mission order or an authorisation to travel for work-related reasons such as giving a speech or a presentation, and
   (ii) cannot reasonably be considered a hobby or leisure activity.

(b) An ‘assignment outside the Union’ as referred to in Article 12b of the Staff Regulations means a one-off task, paid or unpaid, that meets the conditions laid down in points (a) (i) and (ii) of this Article.

(c) An ‘occupational activity’ as referred to in Article 16 of the Staff Regulations means any professional activity, whether gainful or not, other than the activities meeting the conditions set out in Article 20(3).

(d) ‘Structural part-time work’ means part-time work pattern imposed to a contract agent upon hiring and not covered by Article 55(a) of the Staff Regulations.

TITLE TWO: STAFF MEMBERS IN ACTIVE SERVICE, STAFF MEMBERS SECONDED IN THE INTEREST OF THE SERVICE

Article 2
General principles

1. Pursuant to Article 12b of the Staff Regulations, a staff member wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment, shall first obtain the permission of the Appointing Authority. Permission shall be refused only if the outside activity or assignment in question would interfere with the performance of the staff member’s duties or is incompatible with the interests of the institution.

2. Permission to engage in an outside activity or an assignment shall not relieve the staff member, as regards the activity for which the permission is granted, of the other obligations under the Staff Regulations, for instance, those provided for in Article 17 regarding the unauthorised disclosure of information received in the line of duty, Article 55 obliging the staff member to be at all times at the disposal of the institution and Articles 11 and 11a related to situations of conflict of interest. In

---

3 Officials, temporary agents and contract agents.
addition, an authorisation for any outside activity does not mean that the staff member can disregard any national laws on the activity in question.

3. The staff member may not make use in his or her outside activity or assignment (i) of his or her status or of material or (ii) data to which he or she has access as a staff member and which has not yet been made public or is not accessible to the public.

4. The Appointing Authority, when considering whether to permit an outside activity or assignment, shall take into account the statutory link between the applicant and the institution, the nature of his or her duties and the level of his or her responsibilities. It may prohibit the activity or permit it subject to any restrictions it deems appropriate.

Article 3
The need for prior permission

Without prejudice to the provisions of Article 4, all staff members, whether in active service at the Commission or seconded in the interest of the service, shall obtain prior permission from the Commission to engage in an outside activity or an assignment. In order to allow the Appointing Authority to assess the activity under Article 12b of the Staff Regulations, staff members must submit an application accompanied by supporting documents that includes an indication of the expected remuneration, if any.

Article 4
Activities for which prior permission is deemed to be granted

1. By way of derogation from Article 3, staff members are not obliged to submit an application for activities that meet the conditions laid down in this Article, as they are deemed not to interfere with the performance of the staff member’s duties and are deemed compatible with the interests of the institution.

2. Provided that they fall within the scope of this Decision as defined in Article 1, prior permission shall be deemed to be granted for activities meeting the following cumulative conditions:
   (a) they are unpaid or do not generate revenues;
   (b) they are neither pursued in a professional capacity nor are performed for a commercial entity;
   (c) they are performed outside the working hours agreed with the line manager of the staff member concerned or are covered by a duly approved leave or recuperation;
   (d) the impartiality and objectivity of the staff member while performing his duties are not compromised, or may not appear to be compromised in the eyes of third parties, because of interests which diverge from those of the institution;
   (e) the outside activity or assignment has not a negative impact on the reputation and/or on the trustfulness of the institution;
   (f) the other obligations laid down in the Staff Regulations are complied with.

3. As example, the following activities are in principle deemed to fulfil the mandatory conditions set out above for the prior permission to be considered granted:
any unpaid activity that has no link with the activities of the European Union, is carried out in a purely private capacity and is undertaken from time to time only, upon need, in particular:

(i) charitable and humanitarian activities;
(ii) activities relating to sport or wellbeing;
(iii) activities deriving from political, religious, trade unionist and/or philosophical convictions;
(iv) craftwork, artistic or cultural activities;

unpaid teaching activities unless they are performed for a commercial entity;

the mere ownership of assets or holdings, or the management of the personal or family fortune, whether in a private capacity or as a shareholder of a company, but not running a business;

the mere membership of a professional order or association, unless the code of conduct of the order or association conflicts with the staff member’s obligations under the Staff Regulations.

Article 5
Prohibited Activities

Permission for paid outside activities or assignments shall be refused if:

(a) the activity in question is performed during the working hours agreed with the line manager of the official concerned and is not covered by a duly approved leave or recuperation; and/or

(b) the activity in question is such as to interfere with the performance of the staff member’s duties; and/or

(c) the activity in question is incompatible with the interests of the institution, for example because it:

(i) is detrimental to the reputation of the institution; and/or

(ii) damages public trust in the neutrality and objectivity of the institution; and/or

(iii) gives rise to an actual conflict of interest;

and/or

(d) the activity in question, by itself or combined with other authorised outside activities, gives rise to remuneration which exceeds the ceiling referred to in Article 7(1).

Article 6
Activities to be assessed on a case-by-case basis

Permission to engage in outside activities which do not fall under Article 4 or 5 shall be assessed on a case-by-case basis by the Appointing Authority.
Article 7

Maximum net remuneration

Without prejudice to Article 15 of the Staff Regulations, the annual ceiling for net remuneration which a staff member may receive for all his or her assignments or outside activities combined, including any fees received but after deduction of taxes or other duties linked to these activities, shall be EUR 10 000 per calendar year.

Reimbursements of reasonable expenses (such as transport and lodging) and royalties received for publications, artistic proceeds or intellectual property rights shall not be taken into account when calculating the maximum net annual remuneration.

The concept of maximum net annual remuneration does not include revenue received in the exercise of a public office or resulting from the authorised acceptance of a prize or award within the meaning of Article 8.

Article 8

Prizes and awards

1. Staff members who, by reason of an authorised outside activity or assignment, are selected for a prize or an award which does not constitute a gift or favour within the meaning of Article 11, second paragraph, of the Staff Regulations⁴, are required to apply for permission to accept and receive it.

2. Permission shall be refused only if accepting the prize or award is incompatible with the interests of the institution or could impair, or appear to impair, the staff member’s impartiality.

Article 9

Part-time work at the request of the staff member

1. Staff members working part-time at their own request shall not engage in any paid outside activities, pursuant to Article 3, third paragraph, of Annex IVa of the Staff Regulations.

2. Staff members working part-time at their own request may engage in unpaid outside activities during the part of the time they are not working for the institution, in which case Articles 1 to 6 and 8 apply.

3. Staff members who have been authorised to work part-time to hold a public office, may take on unpaid or paid outside assignments and activities directly related to the public office concerned, subject to the conditions set out in Article 14.

Article 10

Structural part-time work

Articles 1-4, 5 (a) to (c), 6 and 8 apply to staff members employed on structural part-time basis. When required, such staff members shall request prior permission and in principle, receive permission to engage in an outside activity or assignment, whether paid or not.

⁴ See Communication of 7 March 2012 from Vice-President SEFCOVIC to the Commission on Guidelines on gifts and hospitality for the staff members.
Article 11
Staff members who need to maintain their professional skills and/or upgrade their qualifications

Staff members shall in principle receive permission to exercise an outside activity or assignment, whether paid or not, if it is required in the interest of the service that they maintain their professional skills and/or upgrade their qualifications. Articles 1-4, 5 (a) to (c), 6 and 8 apply to such staff members.

Article 12
Parental and family leave

1. Staff members benefiting from parental or family leave may engage in unpaid outside activities only, whereby Articles 1-6 and 8 apply.

2. During parental or family leave, paid activities are allowed only in the circumstances provided for in Article 10 and 11.

Article 13
Procedures for obtaining permission - Withdrawal

1. Where required, applications for obtaining permission, together with the relevant supporting documents, shall be submitted to the Appointing Authority at least two months before the activity or the assignment is due to commence.

2. An application shall be submitted to the Appointing Authority for any new activity or assignment and for any change in the activity or assignment.

3. A new application shall likewise be made if a staff member changes posts, to assess whether the new duties and the activity or assignment are compatible with the criteria set out in Article 12b of the Staff Regulations.

4. The Appointing Authority may withdraw its permission in exceptional circumstances only, on justified grounds and after informing the staff member. If the Appointing Authority withdraws its permission to carry out a given outside activity before the expiry date of the period of validity, if any, the staff member shall be granted an appropriate period to take any measures necessary to adapt to the new situation.

Article 14
Public office

Articles 1 to 8 continue to apply where staff members who benefit from Article 15 of the Staff Regulations engage in activities other than those directly related to the public office mandate.
TITLE THREE: STAFF MEMBERS ON LEAVE ON PERSONAL GROUNDS

Article 15
Activities and assignments

1. Under Article 40(1a) of the Staff Regulations, Article 12b of the Staff Regulations shall continue to apply during a period of leave on personal grounds. Accordingly, staff members on leave on personal grounds must request prior permission for any outside activity or assignment at any time during the period of leave, except in the cases listed under Article 4, paragraphs 2 and 3 applied mutatis mutandis.

2. Under Article 40(1a) of the Staff Regulations, staff members shall not be granted permission to engage in an occupational activity or assignment, whether gainful or not, which involves lobbying or advocacy vis-à-vis the institution and which could lead to a conflict of interest, or the possibility of such a conflict, with the legitimate interests of the institution.

3. In other cases than those covered by paragraph 2, permission shall, in principle, be granted except where the outside activity or assignment could give rise to a conflict of interest or be incompatible with the interests of the institution. If a potential conflict of interest is identified or a detrimental effect on the interests of the institution is shown, the Appointing Authority may authorise the activity in question while imposing appropriate restrictions or not grant such an authorization.

Article 16
Remunerated tasks for the Commission during leave on personal grounds

1. A staff member on leave on personal grounds may not receive remuneration for tasks carried out for the Commission. Reimbursement of expenses is not counted as remuneration in this context.

2. ‘Task’ for the purposes of this Decision means:

(a) any direct contract, other than a contract concluded under the conditions of employment of other servants, between the staff member on leave on personal grounds and the Commission;

(b) any relationship with a company in which the staff member holds a substantial direct or indirect financial interest and which entertains a contractual relationship with the Commission

3. Notwithstanding the general prohibition provided for in paragraph 1, the Appointing Authority may, in agreement with the Director-General for Human Resources and Security, grant an exception if the staff member takes leave on personal grounds to follow his or her spouse who is also a staff member of the European Union. This exception shall, however, not be made for tasks consisting of a contractual relationship between the Commission and a company in which the staff member who is on leave on personal grounds holds a substantial direct or indirect financial interest.

4. In cases where the exception under paragraph 3 is granted, the remuneration to which the tasks give rise shall not exceed the remuneration the staff member would have received had he or she been in active service. This may be increased to cover
reasonable professional costs which the staff member incurs through his or her new activity.

5. Working as an employee or sub-contractor for a company with which the Commission has a contractual relationship, and provided the staff member has no direct or indirect substantial financial interest in that company, shall be declared as an outside activity pursuant to Article 15 of this Decision. The Appointing Authority shall make a case-by-case assessment.

Article 17
Procedure for granting permission to engage in outside activities and assignments during leave on personal grounds

1. Decisions on requests for permission to engage in an activity during leave on personal grounds are taken by the Appointing Authority, in agreement with the Director-General for Human Resources and Security.

2. Applications must be submitted to the Appointing Authority at least two months before the beginning of the activity or the assignment. The permission is valid for the period which is set out in the application, and should not be longer than 12 months.

In addition,

(a) the staff member shall sign a declaration confirming he or she is fully aware of his or her obligations under the Staff Regulations. The staff member shall declare therein that the provisions of Article 11a have at all times been complied with, including when negotiating the terms and conditions of the envisaged activity while being in active employment;

(b) for every additional activity, a new application needs to be submitted at least two months before the beginning of the activity or the assignment;

(c) for every extension or renewal of the activity or assignment, a new application must be submitted at least two months before the expiry of the current permission. A new application must also be made for each change in the activity or assignment - in which case the Appointing Authority shall decide whether to maintain the permission or withdraw it;

(d) in the event of non-renewal or withdrawal of permission, the Appointing Authority may give the staff member an appropriate period of time to take the necessary measures to adapt to the situation.

Article 18
Reinstatement in the Commission upon return from leave on personal grounds

Upon reinstatement in a post at the Commission following leave on personal grounds, a staff member shall complete a specific form declaring any personal interest. In particular, the declaration shall include any family or financial interest, such as to impair his or her independence or any other actual or potential conflict of interest relevant to the post in which he or she is being reinstated. Should a conflict of interest be confirmed in a reasoned opinion, the Appointing Authority shall take the measures referred to in Article 11a (2) of the Staff Regulations.
TITLE FOUR: STAFF MEMBERS LEAVING OR HAVING LEFT THE COMMISSION SERVICE
(including staff members receiving an invalidity allowance or an allowance provided for in Annex IV to the Staff Regulations)

Article 19
Obligations of integrity and discretion unlimited in time

Under Article 16, first paragraph, of the Staff Regulations, staff members who have left the service continue, without any limit in time, to be bound by the duty to behave with integrity and discretion as regards the acceptance of certain appointments and benefits.

Under Article 17, second paragraph, of the Staff Regulations, staff members who have left the service shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or accessible to the public.

Article 20
Obligations under Article 16 of the Staff Regulations

1. Under Article 16, second paragraph, of the Staff Regulations, all staff members, including former staff members, must inform the Commission beforehand of their intention to engage in an occupational activity, whether gainful or not, by using a specific form. This obligation applies for two years after leaving the service. If that activity is related to the work carried out by the staff member during the last three years of service and could lead to a conflict of interest with the legitimate interests of the institution, the Appointing Authority may, having regard to the interests of the service, either forbid him or her to undertake it or give its approval subject to any conditions it thinks fit. Moreover, the staff member shall declare in the specific form that, the provisions of Article 11a have at all times been complied with, including when negotiating the terms and conditions of the envisaged activity while being in active employment.

2. Taking up employment at a European Union institution or body in the meaning of the Treaty on European Union and/or the Staff Regulations does not trigger the obligation to inform the Commission, as described in paragraph 1, as engaging in this activity does not lead to leaving the service of the Union for the purpose of applying Article 16, second paragraph, of the Staff Regulations. This is without prejudice of Article 40 of Annex VIII of the Staff Regulations.

3. The activities expressly listed as examples under Article 4, paragraph 3, do not constitute occupational activities within the meaning of Article 16, second paragraph, of the Staff Regulations provided that:
   (a) they do not give rise to lobbying or advocacy vis à vis staff of their former institution;
   (b) are not remunerated;
   (c) are carried out in the staff member’s personal capacity.

4. The occupational activities which are not in any way directly related to the work of the former staff member in the Commission, cannot by their very nature, give rise to a conflict of interest with the legitimate interests of the Commission. They shall
however be notified to the Appointing Authority using the specific form referred to in paragraph 1.

Article 21

Information on occupational activities pursuant to Article 16 of the Staff Regulations

1. When leaving the service of the Commission the staff member must sign a declaration confirming that he or she is aware of the obligations under Article 16, second paragraph, of the Staff Regulations.

2. On the basis of the specific form referred to in Article 21(1), the Appointing Authority shall assess whether the notified activity could lead to a conflict with the legitimate interests of the institution. When assessing the possibility of any actual or potential conflict of interest, the Appointing Authority takes into account factors such as:

(a) any relation between the occupational activity and the work carried out by the former staff member during the last three years of service;

(b) whether the occupational activity would involve working on specific files for which the former staff member was responsible during the last three years of service;

(c) whether the occupational activity would risk harming the reputation of the former staff member and the Commission, for example by retroactively casting doubt on the former staff member’s impartiality while he or she was still in service, thereby tarnishing the Commission’s image;

(d) the quality of a future employer (for example whether it is a public authority or a private/commercial company) or the situation of self-employment;

(e) whether the envisaged activity would involve representing outside interests vis-à-vis the institution;

(f) whether or not the envisaged activity is remunerated.

3. The Appointing Authority defines an appropriate balance between the need to ensure integrity through temporary prohibitions and restrictions and the need to respect the former staff member’s fundamental right to engage in work and to pursue a freely chosen or accepted occupation. In particular, the Appointing Authority may, during the two year period after the staff member has left the service:

(a) prohibit the former staff member from dealing with files, cases or matters related to the work carried out by him or her during his or her last three years of service, including related or subsequent cases and/or court proceedings; and/or

(b) impose a ‘cooling off period’ excluding the former staff member from, for example, professional contacts with former colleagues or from representing opposing parties.

4. Staff members shall inform the Commission of their intention to engage in an occupational activity at least 30 working days before the envisaged starting date. Staff members shall not start the activity before receiving either explicit or implicit acceptance, whichever comes first.

5. The Appointing Authority shall, within 30 working days after being informed of the occupational activity, notify its decision, after consulting the Joint Committee as
provided in Article 16, second paragraph of the Staff Regulations. Failure by the Appointing Authority to notify its decision within the 30 day period constitutes implicit acceptance of the occupational activity. If a declaration submitted by the applicant is incomplete, the Commission shall request additional information and the 30 day period is suspended until the requested information is provided.

6. For former senior officials\(^5\), the Appointing Authority shall, in principle, prohibit them during the first 12 months after leaving the service from engaging in lobbying or advocacy, vis-à-vis staff of their former institution, on behalf of their business, clients or employers on matters for which they were responsible during the last three years in the service. This is without prejudice to a possible “cooling off period” as in paragraph 3b).

7. The Commission shall publish information annually on how the provisions regarding former senior officials are implemented, including a list of the cases assessed having due regard to the rules on the protection of personal data as contained in Regulation (EC) No 45/2001 of 18 December 2000.

---

**Article 22**

**Recipients of an invalidity allowance under Article 78 of the Staff Regulations**

1. The recipient of an invalidity allowance\(^6\) shall sign a declaration confirming that he or she has full knowledge of his or her obligations.

2. The recipient may not be given an assignment of any kind, paid or unpaid, by the Commission.

3. If the recipient intends to engage in employment, whether gainful or not, which does not fall under paragraph 2, and at the request of the person concerned:
   
   (a) the Appointing Authority shall, under Article 15 of Annex VIII to the Staff Regulations, require the recipient to undergo a medical assessment to ascertain whether he or she still satisfies the requirements for payment of the invalidity allowance.

   (b) if this medical assessment is positive, and if the person concerned is or intends to engage in gainful employment, the Appointing Authority shall assess whether, under Article 13(2) of Annex VIII, such employment is consistent with the current basis for granting the invalidity allowance.

   (c) Any income from such activity shall comply with Article 13(2) of Annex VIII to the Staff Regulations. This provision states that any income from such gainful employment which, in combination with the invalidity allowance, exceeds the final total remuneration received while in active service as determined on the basis of the salary scale in force on the first day of the month in which the allowance is to be paid shall be deducted from the invalidity allowance.

---

\(^5\) The term ‘senior officials’ refers to officials occupying functions corresponding to the basic post of Director-General in grades AD16 or AD15 as well as those occupying functions corresponding to the basic post of Director in grades AD15 or AD14. Basic post in this context, and in accordance with Annex 1 of the Staff Regulations, means all positions falling within the function group of Director-General or Director, as the case may be.

\(^6\) For the purpose of this provision, the term ‘invalidity allowance’ also covers ‘invalidity pension’.
(d) If the Appointing Authority considers that the envisaged employment is consistent with the current basis for granting the invalidity allowance, it shall subsequently assess on a case by case basis whether the activity in question, gainful or not, is compatible with the conditions of application of Article 12b of the Staff Regulations.

4. Once the recipient of an invalidity allowance reaches pensionable age, he or she shall be subject to Article 16 of the Staff Regulations and the relevant provisions of this Decision from the date of retirement, if he or she has been in active service at any time during the last three years preceding the date of retirement.

**Article 23**

*Staff members to whom Articles 41 (non-active status), Article 42c (leave in the interest of the service), and Article 50 (retirement in the interests of the service) apply: applicability of Article 16 of the Staff Regulations*

1. Staff members to whom Articles 41 and 50 of the Staff Regulations apply shall comply with the obligations under Article 16 of the Staff Regulations and the relevant provisions of this Decision applied by analogy, until the end of the period of entitlement to the allowance as defined by Articles 41 and 50 of the Staff Regulations.

2. Staff members to whom Article 42c of the Staff Regulations applies shall comply with the obligations under Article 12b of the Staff Regulations and the provisions of Title Three of this Decision. When the period of entitlement to the allowance as defined by Article 42c has ended, the staff member is subject to Article 16 of the Staff Regulations and the relevant provisions of this Decision.

3. Remuneration received by staff members from any new employment during the period of entitlement to the allowance provided by Articles 41, 42c and 50 of the Staff Regulations shall be deducted from that allowance, if the remuneration and allowance together exceed the total remuneration last received by the staff member. This calculation is based on the table of salaries applicable on the first day of the month for which the allowance is to be paid.

**Article 24**

*Activities for or assignments by the Commission*

1. The Commission may ask a former staff member to carry out activities for its benefit. A procedure under Article 16 of the Staff Regulations is not required in such cases.

2. In principle, such activities exclude remuneration of any kind other than reimbursement of any expenses reasonably incurred by the former staff member. An agreement is concluded between the Commission and the former staff member.

3. Paid activities are authorised on an exceptional basis only and are generally subject to the following cumulative conditions, for which the Commission must provide evidence:

   (a) the activities are in the Commission's general interest;

   (b) they meet a specific need requiring knowledge that is not available other than through the former staff member in question.
Any payment made by the Commission may not exceed the difference between the total annual amount of the last salary when the former staff member was still in service and his retirement pension in the year in question. Annual remuneration is established on the basis of the salary table applicable on the first day of the month in which the salary is paid. The reimbursement of expenses for which the former staff member has provided supporting documents shall not be taken into account for this purpose.

4. The Commission must conclude a contract with the former staff member. Nevertheless, the Commission shall not conclude any contract, paid or unpaid or otherwise, with former temporary agents or former contract agents as long as they are in receipt of unemployment allowance from the Union Budget.

**TITLE FIVE: FINAL PROVISIONS**

*Article 25*  
**Disciplinary measures**

Infringements of the rules on outside activities and assignments and occupational activities carried out after leaving the service expose staff members and former staff members to the risk of disciplinary penalties under Article 86 and Annex IX of the Staff Regulations.

*Article 26*  

Eighteen months after the date at which this Decision will take effect, the Commission shall undertake a review of its implementation, in particular with respect to Article 4.

*Article 27*  
**Repeal**

Commission Decision C(2013)9037 is repealed.

*Article 28*  
**Day of taking effect**

This Decision enters into force on the date of the adoption and shall take effect on 1 September 2018.

Done at Brussels, 29.6.2018

For the Commission  
Günter OETTINGER  
Member of the Commission
Annex 10 – Contract Agents

TITLE I — General provisions

Article 1 — Scope and terminology

(1) This Decision shall apply to the conditions of employment of contract staff covered by Article 3a of the CEOS (‘CA 3a’) engaged by the ECSEL JU, (‘contract staff’).

(2) The terms ‘CA 3a’ and staff covered by Article 3b of the CEOS (‘CA 3b’) are used to refer exclusively to these types of staff.

TITLE II — Conditions of engagement

Article 2 — Selection

(1) Engagement as contract staff shall be conditional upon passing the selection procedure set out in Annex I.

(2) By way of derogation from paragraph 1, in exceptional cases, where justified in the interests of the service, the authority authorised to conclude contracts of employment (‘AACC’) may recruit as contract staff a candidate who has passed a recruitment competition for officials, or who is a successful candidate in a selection of temporary staff under Article 2(f) of the CEOS, if such competition, or selection is considered to be appropriate to the duties to be performed.

(3) By way of derogation from paragraph 1, the AACC may engage as a contract staff an official or a temporary staff under Article 2(f) of the CEOS who has been granted leave on personal grounds or unpaid leave respectively.

Article 3 — Function groups

(1) The AACC shall determine the function group in which the member of the contract staff is engaged on the basis of Article 80(2) of the CEOS.

(2) The ECSEL JU shall draw up a job description to this end.

Article 4 — Minimum conditions and qualifications for engagement

(1) Engagement as a member of the contract staff shall be conditional upon fulfilling the minimum conditions and qualifications set out in Article 82(2) and (3) of the CEOS.

(2) Under Article 82(2) of the CEOS, only diplomas that have been awarded in EU Member States or that are the subject of equivalence certificates issued by the authorities in the said Member States shall be taken into consideration. In the latter case, the AACC reserves the right to request proof of such equivalence.

Article 5 — Classification in the function group

(1) In accordance with Article 86(1) of the CEOS, the AACC shall classify contract staff in their function group taking into consideration their qualifications and professional experience at the time of entry into service.

For the purposes of this classification, the qualifications and professional experience taken into account shall be those acquired between the date on which contract staff met the minimum requirements for recruitment, as set out in Article 82(2) of the CEOS, and their entry into service. In the case of qualifications equivalent to those giving access to the function group, the AACC shall establish a reference date from which experience shall be taken into account.
(2) Without prejudice to Articles 8 and 9, contract staff engaged in Function Group I shall be classified in grade 1.

(3) Without prejudice to Articles 8 and 9, contract staff engaged in Function Groups II, III and IV shall be graded within their function group according to the following rules:

(a) in function group II:

<table>
<thead>
<tr>
<th>Qualifications and professional experience</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 5 years</td>
<td>4</td>
</tr>
<tr>
<td>5 years or more</td>
<td>5</td>
</tr>
</tbody>
</table>

(b) in function group III:

<table>
<thead>
<tr>
<th>Qualifications and professional experience</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 5 years</td>
<td>8</td>
</tr>
<tr>
<td>Between 5 years and 15 years</td>
<td>9</td>
</tr>
<tr>
<td>15 years or more</td>
<td>10</td>
</tr>
</tbody>
</table>

(c) in function group IV:

<table>
<thead>
<tr>
<th>Qualifications and professional experience</th>
<th>Grade</th>
</tr>
</thead>
<tbody>
<tr>
<td>less than 5 years</td>
<td>13</td>
</tr>
<tr>
<td>Between 5 years and 17 years</td>
<td>14</td>
</tr>
<tr>
<td>17 years or more</td>
<td>16</td>
</tr>
</tbody>
</table>

(4) By way of derogation from paragraph 3, the AACC may, at the request of a the human resources Unit, classify a member of the contract staff recruited in function groups II, III or IV in a grade within the function group that is higher than those in the tables in paragraph 3(a), (b) and (c). The grading shall be carried out within the range set out in Article 86 of the CEOS. The human resources Unit shall justify its request to the AACC on the basis, in particular, of the professional experience and qualifications required, the tasks and level of responsibility involved or labour market conditions for the profile in question.

(5) Without prejudice to Articles 8 and 9, for the implementation of paragraph 3, the qualifications and professional experience to be taken into account for the purposes of grading contract staff in their function groups are set out in Annex II.

(6) Grading shall be determined on the date of entry into service.

Without prejudice to Article 87(3) of the CEOS, the grading shall not be revised in the course of the contract, including any renewals thereof.

Article 6 — Classification in the grade

(1) In accordance with Article 86(1), second subparagraph, of the CEOS, and without prejudice to Article 8, contract staff shall be classified in the first step of their grade.

(2) However, in accordance with Article 86(1), second subparagraph, of the CEOS, the AACC shall grant 24 months’ additional seniority in the step to a contract staff recruited at grade 1 in function group I to take account of professional experience of three years or more.

Professional experience shall be taken into account in line with the rules in Article 5(1) and (5).
Article 7 — Duration of contracts

(1) In application of Article 85 of the CEOS, the AACC shall establish the policy that the ECSEL JU will apply on the duration of contracts, within the limits provided for in the CEOS. This policy shall be communicated to staff.

(2) Where justified in the interest of the service, the AACC may decide to conclude contracts of a different duration to those set out in the policy referred to in paragraph 1. Those exceptions shall be recorded in a central record by the AACC.

(3) The policy referred to in paragraph 1 may contain provisions on temporary and specific needs. In particular, in duly justified cases, the AACC may decide to conclude contracts with a limited perspective in time. Such contracts are justified in particular for project of limited duration, for cases where the ECSEL JU needs to avail itself of up-to-date knowledge in specific area (and accordingly, to renew staff) or for replacement of absences. Such contracts may be concluded for a fixed period or, only in duly justified cases, for a limited period. In the latter case, the contract is concluded for the duration of the particular task and shall be recorded in the central record referred to in Article 7(2). In both cases of such contracts, the AACC shall clearly inform the candidate, in the offer letter, in the contract, or in any renewal of contract and, where relevant, in the selection notice, that the contractual relationship is linked to duties of limited duration in time that may lead to the termination of the contract or its non-renewal.

Where a successful candidate to contracts referred to in this paragraph is a contract staff under indefinite duration, he or she shall be engaged for an indefinite period in accordance with Annex III. The same applies where, in accordance with Article 85 of the CEOS and Annex III, the new contract of a contract staff would result in indefinite duration contract.

In such cases, the AACC shall clearly inform the candidate in the selection notice, in the offer letter, in the contract or in any renewal of contract, that the contractual relationship is linked to duties of limited duration in time that may lead to a reduction in the activities of the ECSEL JU or a reorganisation of the services, that could constitute a valid ground for termination of the contract.

(4) In the event of interruption, the contract may not be renewed.

Article 8 — Successive contracts

(1) The engagement by the ECSEL JU of a contract staff immediately after a CA 3a or CA 3b contract with another Agency or institution within the meaning of Article 1a of the Staff Regulations shall require a new contract.

(2) The rules applicable to the different situations referred to in paragraph 1 are set out in Annex III.

Article 9 — Probationary period

(1) Without prejudice to Article 8, contract staff shall serve a probationary period in accordance with Article 84 of the CEOS.

Where an initial contract is shorter than the probationary period and the contract is renewed, the period worked during the initial contract shall be included in the total probationary period.

(2) The general implementing provisions of Article 87(1) of the CEOS, as regards determining the reporting officer, shall apply mutatis mutandis to the designation of the reporting officer for the probation report. This competence shall be exercised by the person in the corresponding post at the time the probation report is drawn up.

(3) The procedure for the probationary period is as follows:

a) No less than 1,5 month before the end of the probationary period, the reporting officer shall ask the member of the contract staff to draw up a self-assessment. The staff
member shall have 5 working days in which to do so. If the staff member does not finalise his or her self-assessment within the above time limit, the reporting officer may decide to hold the dialogue referred to at (b) in the absence of a self-assessment.

b) At the latest 5 working days after the self-assessment, the reporting officer and the member of the contract staff shall engage in a formal dialogue. The dialogue shall cover the ability of the member of the contract staff to perform his or her duties and his or her efficiency and conduct in the service.

c) No later than 5 working days after the formal dialogue, the reporting officer shall draw up the probation report. The report shall indicate whether the work of the staff member has proved adequate to justify retention in his or her post, whether it is recommended that he or she be dismissed, or whether, by way of exception, it is recommended that the probationary period be extended in accordance with Article 84(1) of the CEOS.

d) The member of the contract staff then has eight working days in which to make known any comments. Once this period has elapsed, the probation report shall be closed.

e) Where the probation report recommends dismissal or, by way of exception, extension of the probationary period in accordance with Article 84(1) of the CEOS, the report and the comments shall immediately be transmitted to the AACC by the staff member’s direct superior.

(4) If the outcome of the probationary period in a new function group immediately following a previous contract in a lower function group is unsatisfactory, the AACC shall endeavour to identify vacant posts within the ECSEL JU corresponding to the previous function group and to the contract staff member’s profile. If such vacant posts are identified, the AACC may re-employ the staff member in his or her previous function group. The new contract shall be concluded in the grade, step and seniority that the staff member previously had in that function group.

TITLE III — Conditions of employment and career development

Article 10 — Changing function group

(1) In application of Article 87(4) of the CEOS, a CA 3a shall advance to a higher function group by taking part in a general selection procedure.

(2) The AACC may also, by way of exception, organise an exercise enabling the contract staff to advance to the next function group by taking part in a general selection procedure organised by the AACC in accordance with the procedure that it shall set out in advance, within the framework set by this Article.

(3) When deciding whether to organise such an exercise and determining the function groups covered by the exercise, the AACC shall take into account in particular the existing staff at the ECSEL JU for each of the function groups, the commitment forecasts and the available funds.

(4) When it decides to organise such an exercise, the AACC shall set the specific eligibility criteria for the exercise by means of an internal notice. When setting the criteria, the AACC shall exclude from participation in the exercise contract staff who:
   - have served as contract staff at the ECSEL JU for less than 1 year;
   - have not been reclassified in the next grade in the same function group, in accordance with Article 87(3) of the CEOS.

Furthermore, contract staff should have the qualifications required for advancing to the function group for which they are applying as part of the exercise.
(5) Where a contract staff is engaged in the next function group at the close of the exercise provided for in this Article, the AACC shall conclude a new contract and shall apply the provisions of Article 3(2), (3) and (4)(a) of Annex III.

**Article 11 — Mobility within ECSEL JU and between ECSEL JU and other Union agencies and institutions**

(1) Mobility of contract staff within ECSEL JU may imply publication of the vacancy. The AACC may issue an internal notice describing the process applicable to internal selection procedures. Following internal mobility, the contract staff concerned is assigned to new tasks without impact on the current contract of employment with ECSEL JU.

(2) In order to facilitate the mobility of contract staff between ECSEL JU and the Union agencies and institutions and make the best possible use of the skills available, ECSEL JU may organise a selection procedure similar to the general selection procedure provided for in Article 3 of Annex I reserved for contract staff already employed by ECSEL JU and the Union agencies and institutions. To this end, vacant contract staff posts may be published at ECSEL JU, if not already internally published, and be accessible to other Union agencies and institutions. Where they have the qualifications, skills and experience required to perform the tasks set out in the vacancy notice, CA 3a in ECSEL JU and Union agencies and institutions who belong to the same function group as the one published in the vacancy notice and who have served for at least three years as contract staff within ECSEL JU or an Union agency or institution may apply directly to ECSEL JU. The post shall also be open to CA 3a who belong to the function group below the one published in the vacancy notice who have passed at ECSEL JU a general selection procedure under the exercise referred to in Article 10.

(3) If the ECSEL JU deems it advisable, the published post referred to in paragraph 2 may be opened to CA 3b from the Union institutions. In order to be able to apply, CA 3b staff must belong to the same function group as the one published in the vacancy notice, have served as CA 3b staff for at least three years within the institution and have the qualifications, skills and experience required to carry out the tasks set out in the vacancy notice. If the selection procedure for CA 3a staff as referred to in paragraph 2 is unsuccessful, applications from CA 3b staff may be examined by ECSEL JU before resorting to the selection procedure referred to in Article 2(2) or Article 3 of Annex I.

(4) For the engagement of CA 3a selected in accordance with the procedure in paragraph 2, except the mobility within the same Agency in the same function group, the AACC shall conclude a new contract and apply the following provisions:
   i. in Article 1 of Annex III, in the case of a change of agency, or institution; or
   ii. in Article 10(5), in the case of engagement in the next function group under the exercise referred to in Article 10.

(5) For the engagement of CA 3b from a Union institution, selected in accordance with the procedure in paragraph 3, the AACC shall conclude a CA 3a contract and apply Article 2 of Annex III.

**TITLE IV — End of contract**

**Article 12 — Notice of end of contract**

(1) The period of notice shall be set in accordance with Article 47 of the CEOS.

   Fixed-term contracts that are not renewed shall end on their termination date without notice being served.

---

1 Except in case of an amendment of contract to change internal assignment.
(2) Contract staff wishing to resign must formalise their request by writing to the AACC at the latest on the day before the first day of the notice period, clearly stating that they wish to leave the service. Contract staff shall inform their line manager and the human resources Unit beforehand.

(3) If the member of the contract staff, the Unit to which he or she is assigned and the AACC are in agreement, the period of notice may be shorter than that provided for in paragraph 1.

(4) Paragraphs 1 to 3 shall apply by analogy to the probationary period provided for in Article 84 of the CEOS.

Annex I – Contract staff selection procedure
Annex II – Taking account of qualifications and professional experience for purposes of grading contract staff in their function groups
Annex III – Rules applicable to changes in engagement following a contract with ECSEL JU or with another Union Agency or institution
Annex I - Contract staff selection procedure

Article 1 – General principles

1. In accordance with Article 82(5) of the CEOS, the ECSEL JU may ask EPSO to organise a selection procedure for contract staff.

2. The selection procedure shall be organised by one of the following entities:
   a) EPSO via interinstitutional call
      A public call for expressions of interest is published, stating the profiles sought, the function groups corresponding to the various profiles, the selection method and the eligibility criteria (‘interinstitutional call’); or
   b) Group of agencies; or
   c) One agency.

3. In accordance with Article 82(3)(a) of the CEOS, the call for expressions of interest referred to in paragraph 2 may be opened to nationals of EU candidates’ countries, and, where justified by the needs of the service, to nationals of non-member countries.

I – Interinstitutional call (EPSO)

Article 2 – Selection procedure referred to in Article 1(2)(a)

1. The selection procedure is organised on the basis of the call for expressions of interest referred to in Article 1(2)(a).

2. The selection procedure includes the following stages:
   a) Candidates register in an interinstitutional electronic database accessible to the human resources Unit. To this end, they fill in an electronic application form.
      The application form contains, in particular, information making it possible to assess the qualifications, professional experience, skills and motivation of the candidate.
      Candidates may express interest for several profiles and function groups.
      Candidates must regularly update their electronic application form.
   b) On the basis of the electronic application form referred to in (a), the human resources Unit carries out a preselection of the candidates registered in the database who best fit the requirements for the duties to be performed.
      The human resources Unit invites a person appointed by the Staff Committee to attend the preselection of candidates.
   c) If they have not yet successfully passed selection tests as part of another preselection organised on the basis of this Annex for the same profile and for an equivalent or higher function group, the candidates preselected by the human resources Unit referred to in (b) are required to take selection tests.
   d) The human resources Unit referred to in (b) invites the candidates who have successfully passed the selection tests referred to in (c) to an interview before a selection committee.
The selection committee is made up of at least three members consisting of a chairperson, at least one member from the administration of the ECSEL JU and one member appointed by the Staff Committee.

The interview before the selection committee will make it possible to assess the suitability of the candidates chosen by the human resources Unit for the duties to be performed within the ECSEL JU, as well as their language skills.

The selection committee draws up the list of successful candidates and sets out its conclusions in a record of the interview.

e) The Director chooses the person whom it wishes to engage from the list of successful candidates drawn up by the selection committee and as the AACC makes an offer of employment to the candidate.

3. The preselected candidates who passed the selection tests referred to in paragraph 2(c) but who have not been engaged following the interview referred to in paragraph 2(d) will have their results recorded in the database referred to in paragraph 2(a).

Their results in the selection tests will remain valid for the profile and function group concerned, as well as for the lower function groups in the same profile, for the duration and under the terms set out in the call for expressions of interest.

4. Preselected candidates who did not pass the selection tests referred to in paragraph 2(c) may retake the tests for function groups of an equivalent or higher level in that profile only after a minimum period of time set out in the call for expressions of interest.

5. The data in the electronic application form referred to in paragraph 2(a) of a member of the contract staff under contract with an institution within the meaning of Article 1a of the Staff Regulations will remain accessible in the database also referred to in paragraph 2(a) subject to the regular updating of the electronic application form referred to in paragraph 2(a).

II – ECSEL JU’s or inter-agencies’ call

Article 3 – Selection procedure referred to in Article 1(2)(b) and (c)

1. An external selection procedure may be organised either to fill one or more similar positions or to constitute a reserve list of successful candidates.

2. The selection procedure shall be launched by publication of the selection notice, which specifies inter alia:

   a) the nature of the selection (external selection to fill one or more similar position(s)/to constitute a reserve list), including the profile and the number of persons to be selected;
   b) the function group, profile;
   c) the type of tests;
   d) the type of duties to be performed;
   e) the general and specific conditions and qualifications required for the position;
   f) the required knowledge of languages;
   g) the closing date for applications;
   h) the validity of the reserve list;
i) the agency or agencies involved.

3. The selection notice shall be published on the website of the agency or agencies concerned, as well as, if appropriate, on internet job boards and/or in the international, local and specialist press.

The Permanent Representations of the Member States to the European Union and representatives of Member States who sit on the Management Board of the agency or agencies concerned may also be used as communication channels.

4. The selection procedure shall be conducted to the same standards of EPSO’s selections organised for contract staff with equivalent profiles and number of applicants.

5. When an agency or group of agencies is not in a position to meet the standards referred to in paragraph 4, the agency or group of agencies shall seek EPSO’s endorsement of the selection procedure before launching it. EPSO shall respond within the deadline agreed with the agency or agencies concerned.

6. In both cases, the selection procedure shall rely, in addition to examination of the applications, on one or more written test as well as on an interview before a selection committee referred to in paragraph 7 of this Article. Such test(s) shall involve at least:

   a) an anonymous qualifying part;
   
   b) a part aimed at assessing the specific competencies required for the post(s);
   
   c) a part aimed at assessing the general competencies required of European Union contract staff.

The elements in points (a) to (c) may be grouped in one or more parts.

7. The selection procedure shall be conducted by a selection committee appointed by the AACC and composed of at least three members consisting of one chair and at least one member from the administration of the ECSEL JU and one member designated by the Staff Committee.

In specific cases, in particular for selection procedures of experts, additional members may be designated from the agency or agencies concerned, from outside the agency or from outside the Union agencies and institutions.

8. Candidates who, for the same profile and an equivalent or higher function group, successfully passed a written test as part of another selection organised on the basis of Article 3(6) by the same agency, or group of agencies, including the agency organising a new selection procedure, or on the basis of Article 2(2)(c), are not required to take tests referred to in Article 3(6).

---

2 If the AACC decides, in exceptional cases, not to organise a written test, that decision should be duly justified in the central record as referred to in Article 7(2) of the Decision.

3 In the case of a selection procedure organised by a group of agencies, a selection committee shall be designated by agreement between the AACC of the agencies concerned.
Annex II - Taking account of qualifications and professional experience for purposes of grading contract staff in their function groups

Article 1 — General principles

1. The same period may be counted only once.
2. The supporting documents submitted by the candidate may be subjected to a detailed examination by the human resources Unit.

Article 2 — Qualifications

1. ‘Qualifications’ means any completed studies or professional training attested by a diploma issued by a Member State under the conditions set out in Article 4(2) of this Decision.
2. Qualifications will be taken into account:
   - provided that the study or training is at least equivalent to the level of the qualification required for access to the function group and that it lasted for at least one full-time academic year;
   - in respect of a period which may not exceed the statutory duration of the studies. In the case of a doctorate, the actual duration of the studies will thus be taken into account, subject to a maximum of three years;
   - provided that the study or training was undertaken following the award of the diploma giving access to the function group. Studies undertaken and qualifications obtained prior to the diploma giving access to the function group will not be taken into account.

Article 3 — Professional experience

1. For the purposes of this Decision, ‘professional experience’ means any paid activity carried out by the member of the contract staff in accordance with Article 5(1) of this Decision.
2. The actual duration of compulsory military service or equivalent civilian service will be taken into account even if this period of service took place before the conditions giving access to the function group were met.
3. For freelance interpreters, the length of the professional experience will be calculated by counting the number of days worked as an interpreter; 100 days of actual interpretation work will be considered to be equivalent to one year’s professional experience.
4. For freelance translators, the length of professional experience will be calculated, within the limits of the period spent on such activities, on the basis of the number of pages translated converted into days worked; five pages translated will be considered to be equivalent to one day’s work.
5. Periods of paid in-service training, or in-service training for which an indemnity is paid, will be regarded as professional experience.
6. Non-salaried professional activities (e.g. self-employed, liberal professions) will be considered on a case-by-case basis, taking into account their nature and duration. Such consideration will be based on formal data such as tax returns, statements of fees from national bodies, or any other supporting document of an official nature.
7. Professional activities carried out on a part-time basis will be calculated pro rata according to the hours worked.
ANNEX III
RULES APPLICABLE TO CHANGES IN ENGAGEMENT FOLLOWING A CONTRACT WITH ECSEL JU OR WITH ANOTHER UNION AGENCY OR INSTITUTION

I — Successive contracts within the same function group

Article 1 — Successive CA 3a contracts within the same function group

A CA 3a who concludes a CA 3a contract with ECSEL JU in the same function group immediately after a CA 3a contract with another Union agency or institution, will be subject to the following rules:

(1) He or she will not be subject to the selection tests referred to in Article 2(2)(c), or Article 3(6) of Annex I if he or she successfully passed equivalent selections tests before being engaged by the other Union agency or institution. The AACC decides whether the selection tests passed in another Union agency or institution are deemed to be equivalent to selections tests referred to in Annex I.

(2) He or she will be invited by the human resources Unit wishing to engage him or her to an interview before a selection committee in accordance with Article 2(2)(d), or Article 3(6) of Annex I.

(3) If the CA 3a was confirmed in his or her duties by the other Union agency or institution at the end of the probationary period provided for in Article 84 of the CEOS, he or she will be exempt from the requirement to serve another probationary period.

If the CA 3a did not serve the probationary period provided for in Article 84 of the CEOS in the other Union agency or institution, did not complete it or was not confirmed in his or her duties at the end of the probationary period, he or she will have to serve the whole of the probationary period at ECSEL JU under the conditions set out in Article 9 of the Decision.

(4) For the purposes of Article 7 of the Decision and, when applicable, taking into account specific provisions of Article 7(3) thereof, the number of contracts concluded previously with the other Union agency or institution will be taken into account by ECSEL JU when the new contract is being concluded, except in the case provided for in paragraph (3).

This means that a CA 3a who had an indefinite contract with the other Union agency or institution will also be engaged for an indefinite period by ECSEL JU.

(5) Pursuant to Article 86(2), third subparagraph, of the CEOS, the CA 3a will be classified in the most favourable grade resulting from:

- the maintenance of his or her grade, step and seniority within the grade and step during his or her previous contract; or
- the grading in accordance with Article 5 of the Decision.

Article 2 — CA 3a contract succeeding a CA 3b contract within the same function group

A CA 3b who concludes a CA 3a contract with ECSEL JU in the same function group immediately after a CA 3b contract with a Union institution, will be subject to the following rules:
(1) He or she will not be subject to the selection tests referred to in Article 2(2)(c) or Article 3(6) of Annex I if he or she successfully passed equivalent selections tests before being engaged by the previous Union institution. The AACC decides whether the selections tests passed in the previous Union institution are deemed to be equivalent to selections tests referred to in Annex I of this Decision.

(2) He or she will be invited by the human resources Unit wishing to engage him or her to an interview before a selection committee in accordance with Article 2(2)(d) or Article 3(6) of Annex I.

(3) He or she will be required to serve the probationary period provided for in Article 84 of the CEOS at the ECSEL JU under the conditions in Article 9 of the Decision.

(4) For the purposes of Article 7 of the Decision, the AACC will conclude a new CA 3a contract.

(5) He or she will be classified in the function group in accordance with Article 5 of the Decision.

II — Successive contracts in a different function group

Article 3 — Successive CA 3a contracts in different function groups

A CA 3a who concludes a CA 3a contract with ECSEL JU in a different function group immediately after a CA 3a contract with ECSEL JU or another Union agency or institution, will be subject to the following rules:

(1) He or she must pass the selection procedure set out in Article 2 or 3 of Annex I.

(2) He or she will be required to serve the probationary period provided for in Article 84 of the CEOS at ECSEL JU under the conditions in Article 9 of the Decision.

(3) For the purposes of Article 7 of the Decision, the number of contracts previously concluded with the other Union agency or institution will not be taken into account by ECSEL JU when concluding the new contract, except where the CA 3a had an indefinite contract with the other Union agency or institution, in which case he or she will also be engaged by ECSEL JU for an indefinite period in the new function group.

(4) As regards classification in the function group:

a) If the engagement is in a higher function group than the one to which he or she belonged in the other Union agency or institution, the CA 3a will be classified in his or her function group at the most favourable grade resulting from:
   - the application of Article 86(2), second subparagraph, of the CEOS, using the lowest grade taking into account the steps; or
   - the grading in accordance with Article 5 of the Decision.

b) If the engagement is in a lower function group than the one to which he or she belonged in the other Union agency or institution, the CA 3a will be classified in accordance with Article 5 of the Decision.

Article 4 — CA 3a contract succeeding a CA 3b contract in a different function group

A CA 3b who concludes a CA 3a contract with ECSEL JU in a different function group immediately after a CA 3b contract with a Union institution will be subject to the following rules:

(1) He or she must pass the selection procedure set out in Article 2 or 3 of Annex I to the Decision.
(2) He or she will be required to serve the probationary period provided for in Article 84 of the CEOS at ECSEL JU under the conditions in Article 9 of the Decision.

(3) For the purposes of Article 7 of the Decision, the AACC will conclude a new CA 3a contract.

(4) He or she will be classified in the function group in accordance with Article 5 of the Decision.

III — Horizontal provision

*Article 5 — Horizontal Provision*

For the application of the provisions of Article 1(5), Article 2(5), Article 3(4), Article 4(4), the AACC may take into account the classification of the contract staff when deciding whether to engage him or her.
COMMISSION DECISION

of 16.3.2020

amending Decision C(2013) 9051 of 16 December 2013 on leave
COMMISSION DECISION

of 16.3.2020

amending Decision C(2013) 9051 of 16 December 2013 on leave

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (CEOS), originally laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68,1 and in particular Articles 57 and 58 of the Staff Regulations and Annex V thereto, and Articles 16 and 91 of the CEOS,

Having regard to the opinion of the Central Staff Committee, issued on 23 September 2019,

Whereas:

(1) Under the Staff Regulations, the arrival of a newborn child in a household following a birth or adoption entitles an official to maternity leave or special leave for adoption so that at least one of the parents can fully care for the child.

(2) Experience has shown that, in the light of developments in reproductive medicine, laws on procreation and parenthood and the societal context, in some cases of parenthood the conditions for maternity or adoption leave to be granted were not met when a newborn child arrived in a household.

(3) The Staff Regulations allow the Appointing Authority to grant special ad-hoc leave in order to take certain specific circumstances into account. On this basis, special leave to take into account the circumstances described in recital (2) has already been granted by the Appointing Authority in the past with the aim of safeguarding the child’s overriding interest and ensuring inclusive interpretation of the statutory provisions.

(4) This special leave also applies to single parents.

(5) The duration of this special leave should be the same as that of maternity or adoption leave.

HAS DECIDED AS FOLLOWS:

Article 1

In the Annex to Decision C(2013) 9051, the following point II.a.13a is added:

‘II.a.13s Arrival in the household of a new-born child

Conditions for the granting of leave

When a child is born and is then received by a staff member into his/her household, special leave equivalent to special leave for adoption shall be granted to the staff member where neither he/she nor his/her partner meets the conditions to benefit from maternity leave.

The term ‘child’ in the above paragraph means a dependent child within the meaning of the first and second paragraphs of Article 2(2) of Annex VII to the Staff Regulations, as well as a child for whom an official procedure for the recognition of paternity or maternity or equivalent procedure has been initiated.

This leave shall start at the earliest one week before the expected date of the birth and at the latest one week after the day on which the child is born.

Notwithstanding the above criteria, the arrangements applying to special leave for adoption shall apply mutatis mutandis.

Where such special leave has been granted and the child is later adopted by either or both spouses, no special leave shall be granted for the adoption of that child.

**Supporting documents**

When applying for special leave, the staff member shall submit a sworn statement to the administration, describing the steps taken that demonstrate the intention to become a parent.

Following the birth, the staff member shall supply all the documents relating to the official steps taken to establish the paternity or maternity relationship with the child, without delay and within six months at the latest’.

**Article 2**

The implementation of the provisions relating to special leave for the arrival in the household of a newborn child will be assessed within two years following his or her adoption; where applicable, corrective measures may be envisaged. The staff representatives will be able to provide any information they consider useful for carrying out that assessment.

**Article 3**

The decision shall take effect on the day after its adoption.

Done at Brussels, 16.3.2020

*For the Commission*

*Johannes HAHN*

*Member of the Commission*
COMMISSION DECISION

of 30.10.2019

COMMISSION DECISION

of 30.10.2019


THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials (‘Staff Regulations’) and the Conditions of Employment of Other Servants (‘CEOS’) of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 56 of the Staff Regulations, Article 3 of Annex VI and Article 31(5) of Annex XIII to the Staff Regulations, Article 16(1) and paragraph four of Article 91 of the CEOS,

After consulting the Joint Committee,

Whereas:

(1) The implementation of the existing rules has shown that certain provisions on the calculation of the flat-rate allowance for overtime paid to Commission drivers should be clarified and adapted where needed,

(2) It is therefore necessary to amend the Decision of 7 April 2004 on the duties of Commission drivers² as regards the rules for granting and calculating the flat-rate allowance for overtime,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2004) 1318 is amended as follows:

(1) Footnote 3 is replaced by the following:

‘Basic monthly salary for the last step of the last grade in which remuneration for overtime may be paid in the form of a fixed allowance. For officials and temporary agents that grade shall be AST 4. For contract agents it shall be grade 7 in function group II.’

(2) Article 13 is replaced by the following:

‘Officials who were recruited prior to 1 May 2004 and are part of the AST function group shall continue to receive the flat-rate allowance for overtime until they cease to perform the duties of drivers. The flat-rate allowance shall be awarded and calculated under the conditions laid down in this Decision’.

¹ OJ L 56, 4.3.1968, p. 1.
Article 2

This Decision shall take effect on the first day of the month following that of its adoption.

Done at Brussels, 30.10.2019

For the Commission

Günther H. OETTINGER

Member of the Commission
TEXTE EN

ADAPTATION DES DISPOSITIONS D’APPLICATION SUITE À LA REVISION DU STATUT DES FONCTIONNAIRES ET DU REGIME APPLICABLE AUX AUTRES AGENTS DES COMMUNAUTÉS EUROPEENNES

* DECISIONS DE LA COMMISSION :
1. RELATIVE AUX PRESTATIONS DES CHAUFFEURS DE LA COMMISSION
2. RELATIVE AUX MODALITÉS DE MISE EN ŒUVRE DE LA PROCÉDURE D’ATTÉSTATION
3. MODIFIANT LA REGLEMENTATION RELATIVE AUX CONSEILLERS SPÉCIAUX
4. RELATIVE À L’APPLICATION DE L’ARTICLE 1ER QUINQUIES, § 4 DU STATUT
5. RELATIVE À L’INDEMNITÉ DE CONDITIONS DE VIE (ART.10 DE L’ANNEXE X DU STATUT)

Communication de M. KINNOCK

Cette question est susceptible d’être inscrite à l’ordre du jour de la 1653ème réunion de la Commission le mercredi 7 avril 2004.

Destinataires : Membres de la Commission
Directeurs Généraux et chefs de service
COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, XX.XX.2004
C(2004) XXX

Proposal for a

COMMISSION DECISION

on the duties of Commission drivers
Proposal for a

COMMISSION DECISION

on the duties of Commission drivers

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials of the European Communities and the conditions of employment of other servants of the European Communities laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968 (the ‘Staff Regulations’)¹, and in particular Article 56 thereof and Article 3 of Annex VI thereto,

Having regard to Council Directive 93/104/EC of 23 November 1993 concerning certain aspects of the organisation of working time²,

Having regard to the Commission Decision of 1 February 1984 on remuneration in the form of a flat-rate allowance for overtime and the Commission Decision of 30 November 2000, which entered into force on 1 December 2000, on rules on the duties of Commission drivers,

Whereas, as a result of the amendment of Article 56 of and Annex VI to the Staff Regulations by Regulation (EC) No XXXX/XX of XX XXXX 2004, it is necessary to replace the above Decisions with a new Decision,

HAS DECIDED AS FOLLOWS:

COMMON PROVISIONS

Article 1

The general weekly timetable, including flexitime, shall apply to all Commission drivers.

Article 2

In accordance with Directive 93/104/EC, the weekly timetable, including overtime, may not exceed 48 hours. The working day shall include a minimum rest period of 11 consecutive hours in each 24-hour period (at the week-end: 24 hours + 11 hours). Any day started shall be regarded as a day served.

¹ OJ L 56, 4.3.1968, p.1. Regulation as last amended by Regulation …
Article 3

In accordance with Article 3 of Annex VI to the Staff Regulations, drivers shall receive a flat-rate allowance for overtime.

In the context of Article 56 of the Staff Regulations, which stipulates that total overtime shall not exceed 150 hours in any six months, overtime is limited to 25 hours per month and the flat-rate allowance is calculated and due on that basis.

In this context, the principle of a flat-rate allowance implies that when in any given month a smaller amount of overtime is worked entitlement to the flat-rate allowance shall be maintained.

The monthly amount of the flat-rate allowance for overtime to be granted to the group of drivers designated below shall be determined as follows:

- drivers
  - assigned to a Member
    - of the Commission:
      \[
      (0.56\% \times 1.5 \times 3.5) + (0.56\% \times 2 \times 21.5) \times \text{DEGA}^3, 
      \]
    - from the pool who are or may be designated:
      \[
      (0.56\% \times 1.5 \times 3.5) + (0.56\% \times 2 \times 21.5) \times \text{DEGA}, 
      \]
  - non-designated drivers:
    \[
    (0.56\% \times 1.5 \times 20) + (0.56\% \times 2 \times 5) \times \text{DEGA},
    \]
  - drivers for the central mail Service
    \[
    0.56\% \times 1.5 \times 25 \times \text{DEGA}.
    \]

Article 4

The conditions governing the award of these allowances shall be as follows:

- payment from the date on which the person concerned is assigned, by decision of the appointing authority, to the duties giving entitlement to the allowance;

- payment terminating on the date on which the person concerned, by decision of the appointing authority, ceases to satisfy the conditions for award of the allowance;

- payment during leave and during sick leave up to a maximum of 30 days. This limit shall not apply to absence due to annual leave. In the event of sickness, the flat-rate allowance shall be suspended prorata to the number of days of absence from the 31st day. Without prejudice to this provision, the whole of the allowance shall be due for the month which was begun when service was interrupted. When

\footnote{Last step of the grade to which the driver belongs.}
work is resumed, the allowance shall be due prorata to the number of days served from the actual resumption of work.

- These provisions shall not apply if the absence of the official is the consequence of an accident at work related to the exercise of his or her duties or on the journey to or from work.

**PROVISIONS APPLICABLE TO DRIVERS OTHER THAN THOSE ASSIGNED OR DESIGNATED OR ELIGIBLE FOR DESIGNATION**

**Article 5**

Overtime worked shall be accounted for monthly. The monthly overtime shall be cleared each month.

(a) Pool drivers: Article 56 of the Staff Regulations shall continue to apply and round-the-clock availability may not be required on official Commission holidays.

The monitoring introduced shall ensure a fair distribution of duties among these drivers and compliance with the limit of 20% on the monthly total of overtime compulsorily weighted at 200%.

(b) Mail drivers: Article 56 of the Staff Regulations shall continue to apply and round-the-clock availability shall not be required. The monitoring introduced shall ensure a fair distribution of duties among these drivers. There shall be no provision for overtime in the time periods enhanced (statutorily weighted) at 200%.

**Article 6**

The logbooks of drivers other than those assigned and designated must show the nature of the duties (work, mission, training) or the reasons why no duties were performed (leave, sickness, etc).

**SPECIAL PROVISIONS APPLYING TO DRIVERS FOR MEMBERS OF THE COMMISSION**

**Article 7**

In accordance with Directive 93/104/EC, the reference period shall be the week.

- During the week, drivers who are assigned and designated shall alternate between round-the-clock availability and rest; they shall be entitled to at least one free weekend in two.

---

4 The aims of these paragraphs are to put an end to the systematic full use of 25 hours overtime per month by pool drivers and to introduce an operational limit of 20% of 'enhanced' overtime. These provisions in no way affect the conditions for awarding the flat-rate allowance.
• The day-to-day management of assigned drivers and reserve drivers who are or may be designated – when they are working for a Member of the Commission – shall be the responsibility of the Member’s Head of Cabinet.

Article 8:

The weekly programme of the Member of the Commission shall act as a reference, consistent with Article 2, for coordinating during the week the duties of the assigned driver and the reserve driver who is or may be designated, with these two drivers coordinating between themselves to ensure full availability.

If during the week a driver reaches the limits set out in Articles 2 and 3, he shall be replaced by the designated driver from the reserve pool.

If the services of the designated reserve driver are not fully used, he shall remain available to the Commission’s transport pool.

If neither the assigned driver nor the designated reserve driver is available in accordance with Article 2 or because of leave or sickness, the duties of reserve driver shall be performed, under the same conditions as those applicable to assigned or designated drivers, by a driver eligible for designation by the Transport Unit who satisfies the conditions laid down.

SERVICE CLOTHING

Article 9

Drivers shall be provided with sober or classic service clothing, including shoes, purchased each year by the Administration. They shall be given a choice of colours of cloth of the same quality and cost.

MISSIONS

Article 10

A driver on mission must be covered by a duly completed travel order. A driver covered by a travel order to drive the official car of a Member of the Commission in the absence of that Member or a member of his Office is also on mission when returning the vehicle from or taking it to the site of an official journey. If the journey takes place outside the general weekly timetable, including flexitime, the corresponding time shall be counted as overtime subject to the ceiling fixed by the Staff Regulations and this Decision.

PROTECTION OF THE DRIVER

Article 11

Drivers shall comply with the road traffic laws of the country where they are driving.

The Commission shall, as far as possible, assist drivers in any proceedings brought against them by the national authorities for offences committed while exercising their duties.
Where drivers infringe the Highway Code in the exercise of their duties, the Commission shall consider the circumstances of the event and, if appropriate, notify the competent national authorities that it intends to invoke the Protocol on Privileges and Immunities.

Where appropriate, the person carrying out the mission may give the driver, in writing, any instructions needed for the mission to proceed successfully.

APPLICATION TO OTHER SERVANTS

Article 12

Within the limits resulting from Articles 16, 57 and 88a of the conditions of employment of other servants of the European Communities and Article 56 of and Annex VI to the Staff Regulations, this Decision shall apply by analogy to temporary, auxiliary and contract staff.

TRANSITIONAL PROVISIONS

Article 13

1. For officials in grade AST 2 (for the period from 1 May 2004 to 30 April 2006: grade D*2) who were in grade D 3 before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 3 (for the period from 1 May 2004 to 30 April 2006: grade D*3).

For officials in grade AST 3 (for the period from 1 May 2004 to 30 April 2006: grade D*3) who were in grade D 2 before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 4 (for the period from 1 May 2004 to 30 April 2006: grade D*4).

For officials in grade D 1 or in category C before 1 May 2004, the flat-rate allowance shall be calculated on the basis of the fifth step in grade AST 5 (for the period 1 May 2004 to 30 April 2006: grade D*5).

2. Officials in Categories C and D before 1 May 2004 who do not become a member of the assistants' function group without restriction in accordance with Article 10(3) of Annex XIII to the Staff Regulations and who are or will be reclassified or promoted to grades AST 5, AST 6 or AST 7 (for the period from 1 May 2004 to 30 April 2006: grades C*5/D*5, C*6 and C*7), shall continue to receive the flat-rate allowance for overtime until they cease to perform the duties of driver.

The flat-rate allowance for those officials shall be calculated on the basis of the fifth step in grade AST 5 (for the period from 1 May 2004 to 30 April 2006: grade D*5).

3. Under no circumstances shall the amount of the flat-rate allowance be less than that received before 1 May 2004.

In practice, this provision will apply only to the Members of the Commission.
ENTRY INTO FORCE

Article 14

This Decision shall enter into force on 1 May 2004.


Done at Brussels, [...]
COMMISSION DECISION

of 12.6.2019

laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings
COMMISSION DECISION

of 12.6.2019

laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to the Staff Regulations of Officials (‘Staff Regulations’) and the Conditions of Employment of Other Servants (‘CEOS’) of the European Union, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68, and in particular Articles 2(3) and 30 of Annex IX of the Staff Regulations,

After consulting the Staff Committee and the Staff Regulations Committee,

Whereas:

(1) In order to take account of the developments in the case-law of the European Union Courts and in the light of the experience acquired by the Investigation and Disciplinary Office of the Commission (IDOC) in the field of inquiries and disciplinary proceedings, it is necessary to replace Commission Decision C(2004) 1588 which laid down general implementing provisions on the conduct of administrative inquiries and disciplinary procedures.

(2) It is necessary to ensure the effectiveness, efficiency and transparency of administrative inquiries, pre-disciplinary proceedings and disciplinary proceedings, in compliance with the provisions of the Staff Regulations and CEOS.


The rules set out in Commission Decision (EU) 2019/165 concerning the provision of information to data subjects and the restriction of certain data protection rights should apply where relevant. It is necessary to ensure the confidentiality of personal data processed in the context of administrative inquiries and disciplinary proceedings.


4 Commission Decision (EU) 2019/165 of 1 February 2019 laying down internal rules concerning the provision of information to data subjects and the restriction of certain of their data protection rights by the Commission in the context of administrative inquiries, pre-disciplinary, disciplinary and suspension proceedings (OJ L 32, 4.2.2019, p. 9).
(4) Administrative inquiries, pre-disciplinary proceedings and disciplinary proceedings should be conducted in such a way as to give the person concerned the opportunity to put forward facts and circumstances relevant to the case.

(5) Administrative inquiries, pre-disciplinary proceedings and disciplinary proceedings should be conducted within a reasonable period of time, in accordance with good administrative practice.

(6) Staff members involved in administrative inquiries, pre-disciplinary proceedings and disciplinary proceedings should be informed of their rights and obligations.

(7) The alleged victim of a situation of harassment should be informed without undue delay once an administrative inquiry has been opened into this situation. At the end of the inquiry, the alleged victim should be informed of the decision by the appointing authority to close the case or to follow it up.

(8) In order to ensure that staff members maintain high standards of ethics and integrity in compliance with their obligations, it is necessary to raise awareness by providing them with adequate information and publicity about disciplinary matters.

(9) For the sake of legal certainty, it is necessary to ensure that administrative inquiries are opened within a reasonable period of time and in any event not later than 10 years after the alleged breaches ceased. However, it should be possible to open administrative inquiries beyond this time limit in cases of serious allegations of fraud, corruption and any other illegal activity affecting the financial interests of the Union, as well as in cases where the Staff Regulations or of the CEOS so provides.


(11) In accordance with the Staff Regulations, the members of IDOC should carry out their tasks in full independence and should avoid conflicts of interest. They should inform their hierarchy immediately if they have any personal interest which impairs or could be seen as impairing their independence when dealing with a case.

(12) The accuracy of the information received by IDOC in relation to a possible breach of statutory obligations should be assessed in order to enable the appointing authority to decide on the appropriate follow-up of such information. To that end, IDOC should conduct a preliminary assessment of the information.

HAS DECIDED AS FOLLOWS:

CHAPTER 1

General provisions

Article 1

Organisation of IDOC and proceedings

1. The Investigation and Disciplinary Office of the Commission (IDOC) is attached to the Directorate-General for Human Resources and Security.

2. IDOC shall carry out:
   (a) preliminary assessments
   (b) administrative inquiries
   (c) pre-disciplinary proceedings
   (d) disciplinary proceedings
   (e) suspension proceedings.

Article 2

Definitions

For the purposes of this Decision, the following definitions shall apply:

1. ‘staff member’ means Commission officials and former officials within the meaning of the Staff Regulations, as well as servants and former servants within the meaning of CEOS; for the purposes of Chapters III and IV of this Decision, it also means national experts, persons employed under private law contracts working on Commission premises, and trainees;

2. ‘person concerned’ means any staff member whose conduct is the subject of an administrative inquiry, pre-disciplinary proceedings, disciplinary proceedings and/or suspension proceedings;

3. ‘witness’ means any staff member or any other person who is requested to provide information relating to facts which are the subject-matter of an administrative inquiry, pre-disciplinary proceedings and/or disciplinary proceedings;

4. ‘alleged victim’ of harassment means a person who brought forward allegations of harassment against him or her through a formal procedure, without prejudice to whether or not such harassment is finally established;

5. ‘appointing authority’ means the competent appointing authority in the European Commission, as set out in Commission Decision C(2013)3288, as amended;

6. ‘preliminary assessment’ means all actions directed at evaluating the information received by IDOC in order to enable the appointing authority to decide on the appropriate follow-up of such information;

7. ‘administrative inquiry’ means all actions directed at establishing the facts and circumstances of the case for which IDOC has been issued with a mandate, in accordance with Article 2 of Annex IX to the Staff Regulations;
‘pre-disciplinary proceedings’ means all actions directed at enabling the person concerned to be heard, in accordance with Article 3 of Annex IX of the Staff Regulations, on the established facts and circumstances of the case, including their legal qualification, in order to enable the appointing authority to decide on the appropriate follow-up to the case;

‘disciplinary proceedings’ means all actions directed at enabling the appointing authority to decide upon the disciplinary penalty to be imposed on the person concerned in accordance with Articles 9 and 10 of Annex IX to the Staff Regulations;

‘suspension proceedings’ means all actions directed at enabling the appointing authority to decide whether to suspend a staff member, in accordance with Article 23 of Annex IX to the Staff Regulations.

CHAPTER II

Principles, rights and obligations

A cticle 3
General principles
1. IDOC shall carry out all its tasks objectively and impartially, in conformity with the principles of legality, proportionality and confidentiality, taking account of all circumstances brought to its knowledge.
2. The presumption of innocence shall apply at all procedural stages.

Article 4
Duration of proceedings
All proceedings shall be carried out within a reasonable period of time commensurate with the circumstances and complexity of the case.

Article 5
Rights of the person concerned
1. The person concerned shall be informed of his or her rights and obligations applicable to the proceedings at the moment he or she is informed for the first time that these proceedings have been opened.
2. The person concerned shall have the right not to incriminate him or herself.
3. The person concerned may, at any step of the proceedings, put forward facts and circumstances in relation to the case. That right shall not be used to unduly delay the proceedings.
4. In addition to the general rights set out in paragraphs 1, 2 and 3, the person concerned shall have the specific rights listed below in Chapters IV, VI, VII, VIII and X.
Article 6
Rights of the witnesses

1. Witnesses requested to testify in the course of the proceedings shall be informed of their rights and obligations before being heard orally or in writing for the first time in the course of such proceedings.

2. In addition to the general right set out in paragraph 1, the witnesses shall have the specific rights listed below in Chapters IV, V, VI and VIII.

Article 7
General obligations

1. In accordance with their duty of loyalty to the institution, staff members called upon to provide information shall cooperate and provide all requested information available to them, subject to obligations regarding confidentiality.

2. The person concerned shall remain at the disposal of the institution as long as the procedure concerning him or her is ongoing.

3. Without prejudice of their right to be accompanied, assisted or represented in the proceedings, staff members and any other person involved in the proceedings shall be prohibited from any unauthorised disclosure of information relating to the proceedings.

4. Information obtained or forwarded in the course of the proceedings, in whatever form, shall be subject to confidentiality and shall enjoy the protection given by Regulation (EU) 2018/1725.

5. The members of IDOC and any other person designated to participate in the proceedings shall declare any circumstance which could impair or could be perceived as impairing their independence or impartiality when dealing with a case.

Article 8
Protection of whistleblowers

If the information triggering the proceedings laid down in this Decision has been submitted on the basis of the procedure set out in Article 22(a) of the Staff Regulations, the provisions of the Commission’s Guidelines on whistleblowing⁶ shall be taken into account in the context of the proceedings referred to in this Decision.

Article 9
Reimbursement of travel expenses

Persons who are invited for a hearing in the context of the proceedings laid down in this Decision shall be entitled to reimbursement of their travel expenses as follows:

(a) Staff members in active service shall be reimbursed on the basis of the applicable rules on mission expenses;

(b) Former staff members and other persons shall be reimbursed on the basis of the applicable rules on expenses incurred by persons from outside the Commission attending a Commission meeting in an expert capacity.

CHAPTER III

Preliminary assessment

Article 10
Preliminary assessment

1. Upon receiving information indicating a possible breach of statutory obligations, IDOC shall carry out a preliminary assessment of the information and accompanying evidence.

2. The preliminary assessment shall be aimed at evaluating the information received in order to determine the appropriate follow-up. In this context, IDOC may request complementary information, in particular from the relevant services and from the source of the initial information.

3. Where information received concerns or could concern facts for which OLAF is competent, IDOC shall transmit the information to OLAF without delay. For information falling within the scope of point 4 of Annex II to the Administrative arrangements, the procedures set out in those arrangements apply.

4. At the end of the preliminary assessment, IDOC shall draw up an assessment note for the appointing authority so that the latter could decide whether the case is to be closed without further action (non-case) or warrants a follow-up.

CHAPTER IV

Administrative inquiries

Article 11
Opening of an administrative inquiry

1. On the basis of the assessment note provided for in Article 10(4), the appointing authority may decide, in agreement with the Secretary-General, to open an administrative inquiry.

2. In accordance with the Administrative arrangements, before the opening of an administrative inquiry, IDOC shall consult OLAF to ascertain that it is not conducting an investigation for its own purposes and/or does not intend to do so.

3. Where OLAF is conducting an investigation within the meaning of Regulation of the European Parliament and of the Council (EU, Euratom) No 883/2013 or informs IDOC or the appointing authority that it is considering whether or not to do so, no administrative inquiry shall be opened regarding the same facts unless otherwise agreed with OLAF.

---

4. An administrative inquiry shall not be opened in respect of alleged breaches older than 10 years. That period shall begin on the day on which the alleged breach ceases.

5. Paragraph 4 shall not apply to serious allegations of fraud, corruption or any other illegal activity affecting the financial interests of the Union, or where a provision of the Staff Regulations or of the CEOS provides otherwise.

Article 12
Mandate

1. In agreement with the Secretary-General, the appointing authority shall issue IDOC with a mandate setting out the purpose and scope of each administrative inquiry it decides to open. It shall require IDOC to establish the facts and determine the individual responsibility of the person(s) concerned in respect of the facts and circumstances of the case.

2. At any time during the inquiry, the appointing authority, in agreement with the Secretary-General, may decide to enlarge the scope of the mandate, in particular in order to cover additional facts. The person concerned shall be informed accordingly.

Article 13
The exercise of powers as regards the administrative inquiry

1. IDOC shall exercise its powers independently, within the scope of its mandate. It shall neither seek nor receive instructions regarding the conduct and findings of the inquiry.

2. IDOC shall have the power to request documents and other data relevant to the case in any format, summon any staff member to provide information, and carry out on-the-spot verifications.

3. IDOC may request assistance from other specialist departments of the Commission, in particular the service responsible for security, without prejudice to their own competence in this regard.

4. The appointing authority may appoint an investigator outside IDOC to conduct the administrative inquiry, in particular to avoid a situation of conflict of interest. Paragraphs 1, 2 and 3 shall apply.

Article 14
Information regarding the opening of an administrative inquiry

1. IDOC shall inform the person concerned as soon as an administrative inquiry has been opened in his or her regard provided that that information does not hinder the inquiry. The information shall indicate, in particular, the nature of the facts concerned and when they are alleged to have occurred.

2. IDOC shall decide on the need to inform the service of the person concerned that an administrative inquiry has been opened, taking into account the circumstances of the case.
Article 15

Conduct of the administrative inquiry

1. Administrative inquiries shall be conducted in an independent, impartial and thorough manner, in conformity with the principles of legality, proportionality and confidentiality.

2. Investigative measures shall be directed at establishing the facts and circumstances of the case including those which may attenuate the individual responsibility of the persons concerned or exonerate them entirely from their responsibility.

3. The administrative inquiry shall be carried out within an indicative timeframe of 12 months from the mandate.

4. While an inquiry is ongoing, the person concerned shall not have access to the file.

Article 16

Collecting statements

1. IDOC may collect statements from staff members and any other person who may have information relevant to the administrative inquiry, either by calling them to a hearing or requesting them to submit written statements.

2. Hearings may be conducted by videoconference, phone or any equivalent media.

3. Staff members or any other person called to a hearing may be accompanied or assisted by a person of their choice.

4. Before staff members or any other person are being heard or requested to submit written statements, IDOC shall inform them of their rights and obligations regarding the ongoing procedure as well as the subject of the inquiry.

5. Where the hearing of a witness produces evidence that he or she may be a person concerned, the hearing shall be terminated. The witness shall be informed forthwith of his or her rights as a person concerned and be given a copy of the records of statements that he or she has already made in the course of the inquiry.

6. The hearing shall be recorded in a document signed by the staff member or any other person who was heard and by the interviewers once it has ended. Documents submitted by the staff member during the hearing shall be attached to it. The hearing may be audio recorded.

Article 17

Right to provide comments

1. Once the administrative inquiry has been completed and before written conclusions referring by name to a person concerned are drawn up, the person concerned shall be given the opportunity to comment on the facts concerning him or her.

2. Where absolute secrecy is required in relation to investigative procedures by a national judicial authority, the obligation to invite the person concerned to comment may be deferred by the Secretary-General in agreement with the Director-General for Human Resources and Security.

3. IDOC shall invite the person concerned to submit his or her comments in writing. The invitation shall indicate the deadline for submitting comments, which shall not
be less than 10 working days from receipt of the invitation, unless otherwise agreed with the person concerned.

4. The conclusions of the inquiry shall be drawn on the basis of the information gathered and any comments of the person concerned. If no comments have been submitted within the deadline, other than in exceptional circumstances, the conclusions shall be drawn on the basis of the information gathered.

Article 18
Administrative inquiry report

1. At the end of the administrative inquiry, IDOC shall draw up a report.

2. The report shall set out the procedural steps followed, the facts and circumstances relevant to the case and, if appropriate, individual responsibilities. Its conclusions shall mention the potential breaches of the obligations incumbent on the person concerned in relation to the facts and circumstances established by the inquiry.

3. The report shall be accompanied by copies of all documents and statements relevant to the case including, where appropriate, the opinion of the body in charge of financial irregularities.

4. The director of IDOC shall transmit the report to the appointing authority and may issue recommendations on the appropriate follow-up.

Article 19
Closure of the case by the appointing authority without further action

1. Where the appointing authority decides to close the case without further action, it shall inform the person concerned of its decision in writing. At the request of the person concerned, this decision may be inserted in his or her personal file.

2. At the request of the person concerned, and subject to the protection of the legitimate interests of third parties, the appointing authority shall forward to him or her all the documents directly linked to the allegations concerning him or her.

3. The closure of the case shall not prevent the inquiry from being reopened on the basis of new facts in accordance with Article 28 of Annex IX to the Staff Regulations.

CHAPTER V
Specific provisions concerning the rights of alleged victims of harassment and protective measures

Article 20
Information given to the alleged victim

1. The alleged victim of a possible situation of harassment shall be informed without undue delay of the opening of the administrative inquiry regarding this situation.

2. Where the appointing authority decides to close the case without further action, it shall inform the alleged victim of that decision.
3. Where the appointing authority decides to give a follow-up to the inquiry regarding the allegations of harassment, it shall inform the alleged victim of its conclusions as regards these allegations.

Article 21
Protective measures

At any time during the administrative inquiry, IDOC may recommend to the appointing authority to take appropriate and proportionate measures to protect the alleged victim of harassment and the witnesses requested to testify or to ensure the proper functioning of the service concerned. In accordance with the duty of care, such measures may in particular consist in transferring the alleged victim and/or the alleged harasser to another service.

CHAPTER VI
Pre-disciplinary proceedings

Article 22
Mandate for pre-disciplinary proceedings

1. Where appropriate and without prejudice to the powers conferred to it by Article 3 of Annex IX to the Staff Regulations, the appointing authority shall issue IDOC with a mandate to conduct the hearing pursuant to Article 3 of Annex IX to the Staff Regulations on its behalf. The mandate shall refer to the potential breaches to the person concerned in consideration of the established facts and circumstances.

2. At any time during the pre-disciplinary proceedings, the appointing authority may decide to open an administrative inquiry or refer the case to OLAF, in particular in order to cover additional facts outside the scope of the mandate.

Article 23
Rights of the person concerned

1. The director of IDOC shall notify the person concerned of the mandate and invite him or her to a hearing.

2. The notification referred to in paragraph 1 shall include all documents relating to the potential breach of the statutory obligations, including the IDOC administrative inquiry report or the OLAF investigation report, except when this affects legitimate interests of confidentiality. In such cases, some of those documents or parts thereof may be withheld for a period of time proportionate to the protection of such interests and the person concerned shall be informed accordingly.

Article 24
Pre-disciplinary proceedings hearing

1. The hearing shall take place no less than 10 working days after the person concerned has received the invitation to the hearing, unless otherwise agreed with the person concerned.
2. The hearing shall take place, in principle, in the physical presence of the person concerned. In agreement with the person concerned, it may be conducted by videoconference and/or telephone or other equivalent media.

3. The person concerned may be accompanied or assisted by a person of his or her choice.

4. The person concerned shall be informed before the hearing of his or her rights and obligations in respect of the ongoing proceedings and of their potential follow-up.

5. If, for objective reasons, the person concerned cannot be heard in person, he or she shall be given the opportunity to be represented by a person of his or her choice, or may be asked to comment on the documents referred to in Article 23(2) and to reply to IDOC’s questions in writing, by a fixed deadline.

6. A hearing report shall be drawn up. It shall be signed by the person concerned and/or by the person accompanying, assisting or representing him or her. The person concerned shall receive a copy of the hearing report as well as a copy of any document presented to him or her during such hearing. The hearing may also be audio-recorded.

7. Where the person concerned fails to be represented at the hearing or to submit written comments and/or replies by the deadline referred to in paragraph 5, the appointing authority shall decide, in the interest of the proceedings, on the appropriate follow-up of the case.

Article 25
Additional verifications

1. Where certain facts relating to the allegations against the person concerned require further verification, the results of the verification shall be communicated to the person concerned for comments before the appointing authority decides on the appropriate follow-up of the pre-disciplinary proceedings.

2. Where it appears necessary to hear other persons, in particular at the request of the person concerned, the reports of those other hearings shall, subject to the legitimate interests of third parties, be communicated to the person concerned for comments when the facts mentioned are directly linked to the allegations.

Article 26
Follow-up by the appointing authority

1. On the basis of the record of the hearing referred to in Article 24(6) and all other relevant documents, the appointing authority shall take one of the decisions provided for in Article 3 of Annex IX to the Staff Regulations.

2. Where the appointing authority decides that no case can be made against the person concerned pursuant to Article 3(1)(a) of Annex IX to the Staff Regulations, he or she may request that a copy of the decision be inserted in his or her personal file.

3. Where the appointing authority decides to address a warning to the person concerned pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations, it shall be inserted in his or her personal file. The person concerned has the right to add comments on the warning which shall also be inserted in the personal file. After 18 months of the date of the warning, the person concerned may ask the appointing authority to have it removed from his or her personal file.
CHAPTER VII

Disciplinary proceedings

Article 27
General principles

1. A single case of misconduct shall not give rise to more than one disciplinary penalty.

2. The severity of the disciplinary penalties imposed shall be commensurate with the seriousness of the misconduct. To determine the seriousness of the misconduct and when deciding upon the disciplinary penalty, the appointing authority shall take account of all facts and circumstances of the case including those which may aggravate or attenuate the individual responsibility of the person concerned. It shall in particular consider the following factors:

(a) the nature of the misconduct and the circumstances in which it occurred;
(b) the extent to which the misconduct adversely affects the integrity, reputation or interests of the institutions;
(c) the extent to which the misconduct involves intentional actions or negligence;
(d) the motives for the staff member’s misconduct;
(e) the staff member’s grade and seniority;
(f) the degree of the staff member’s personal responsibility;
(g) the level of the staff member’s duties and responsibilities;
(h) whether the misconduct involves repeated action or behaviour;
(i) the conduct of the staff member throughout the course of the career.

CHAPTER VIII

Disciplinary proceedings not involving the Disciplinary Board

Article 28
Opening of the proceedings

In cases where the appointing authority takes a decision provided for in Article 3(1)(c)(i) of Annex IX to the Staff Regulations, it shall initiate disciplinary proceedings and address to the person concerned a report containing the following:

(a) the established facts and the circumstances in which they arose, including, if appropriate, any relevant aggravating or extenuating circumstances;
(b) the alleged breaches of his or her obligations.
Article 29

Hearing by the appointing authority

1. A hearing of the person concerned by the appointing authority shall take place no less than 10 working days after the person concerned has received the report referred to in Article 28 by the person concerned, unless otherwise agreed with the person concerned.

2. The hearing shall take place, in principle, in the physical presence of the person concerned and may be audio recorded. In agreement with the person concerned, it may be conducted by videoconference.

3. The person concerned may be accompanied or assisted by a person of his or her choice.

4. If, for objective reasons, the person concerned cannot be heard in person, he or she shall be given the opportunity to be represented by a person of his or her choice, or may be asked to comment in writing on the report referred to in Article 28, by a fixed deadline.

5. Where the person concerned fails to be represented or to submit written comments by the deadline referred to in paragraph 4, the appointing authority shall take its decision, in the interest of the proceedings, on the basis of the file.

Article 30

Decision by the appointing authority

1. In the light of the hearing referred to in Article 29 and of all other relevant documents in the file, the appointing authority shall decide one of the following:

   (a) to close the case without imposing any penalty;
   (b) to address a warning to the person concerned pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations;
   (c) to address a written warning or a reprimand to the person concerned pursuant to Article 9(1)(a) and (b) of Annex IX to the Staff Regulations;
   (d) to open disciplinary proceedings before the Disciplinary Board.

2. Where a warning is addressed to the person concerned pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations, Article 26(3) of this Decision shall apply.

CHAPTER IX

Disciplinary proceedings before the Disciplinary Board

Article 31

Composition and appointment of the Disciplinary Board

1. The Disciplinary Board shall consist of:

   (a) a chairman and four permanent members, all of whom may be replaced by alternates, for cases where the person concerned is in a grade from AD 14 to AD 16;
(b) a chairman and four permanents members, who may be replaced by alternates, together with two additional members belonging to the same function group and to the same grade as the person concerned, for cases other than those referred to in point (a).

2. The permanent members and their alternates shall be appointed:
   (a) for cases where the person concerned is in grade AD 15 or AD 16, from amongst officials in active employment in at least grade AD 16;
   (b) for all other cases, from amongst officials in active employment in at least grade AD 14.

3. The chairman shall be a former official of an institution of the Union or former member of an institution of the Union or another international organisation who is a citizen of a Member State of the Union. Unless otherwise agreed between the Authority Empowered to Conclude Contracts and the chairman pursuant to Article 123 of the CEOS, the chairman shall be remunerated on a daily basis at a level equivalent to 1/22 of the basic salary of an official in grade AD 16, step 1.

4. The chairman’s alternate(s) shall be officials or former officials of an institution of the Union in grades AD 15 or AD 16. Former officials shall be reimbursed the travelling and accommodation expenses they incur when carrying out their duties as alternate chairman.

5. The Disciplinary Board shall include at least one member, who may be the chairman or the chairman’s alternate, from outside the institution.

6. The chairman and his or her alternate(s), the members of the Disciplinary Board and their alternates shall be appointed for a maximum period of 3 years, which may be renewed.

Article 32
Secretariat of the Disciplinary Board

The appointing authority shall appoint the secretary of the Disciplinary Board and, where appropriate, the secretary’s alternate, from amongst staff members in function group AD.

Article 33
Independence, confidentiality, continuity and incompatibilities

1. The chairman, chairman’s alternate and the members of the Disciplinary Board shall be completely independent in the performance of their duties.

2. The members of the Disciplinary Board shall inform the chairman or the chairman’s alternate immediately if they have any conflict of interest, which impairs or could be seen as impairing their independence or impartiality when dealing with a case. In case the chairman or the chairman’s alternate is confronted with the same issue, they shall inform immediately the appointing authority.

3. The deliberations of the Disciplinary Board shall be secret.

4. Where disciplinary proceedings are in progress when their term of office ends, the chairman, the chairman’s alternate and the members may continue their work until those proceedings are concluded, subject, if necessary, to a contractual adjustment as regards the remuneration or the expenses of the chairman and the chairman’s alternate.
5. The relevant grade of the additional members to be taken into consideration pursuant to Article 5(2) of Annex IX to the Staff Regulations is the grade applicable at the time of drawing by lot provided for in Article 6(4) of Annex IX to the Staff Regulations.

6. The following persons shall not sit on the Disciplinary Board in a specific case:
   (a) staff members employed at IDOC at the time the disciplinary proceedings are pending;
   (b) staff members employed at OLAF or at the HR Security Directorate at the time the disciplinary proceedings are pending, in case OLAF or the HR Security Directorate, where the staff member is employed, has been involved in the case;
   (c) immediate colleagues and direct superiors of the person concerned, as well as any other staff member who has an actual or potential conflict of interest.

Article 34
Report to the Disciplinary Board
1. The appointing authority shall submit the report referred to in Article 12(1) of Annex IX to the Staff Regulations to the person concerned and to the chairman of the Disciplinary Board.
2. The chairman shall bring the report to the attention of the members of the Disciplinary Board called upon to deal with the case in question.

Article 35
Role of the chairman
1. The chairman shall organise the work of the Disciplinary Board, ensuring that the appropriate organisational and procedural measures are taken and bringing all information and documents relating to the case to the attention of all Disciplinary Board members and parties to the proceedings.
2. The chairman may be assisted by the secretary to the Disciplinary Board in administrative matters. In particular all incoming and outgoing correspondence with the Disciplinary Board shall pass through its Secretariat. Furthermore, the secretary shall sign all correspondence on behalf of the chairman, unless the latter decides otherwise.

Article 36
Equality of arms
1. The appointing authority shall be represented before the Disciplinary Board by the director of IDOC or a substitute designated by its director. The representative may be accompanied by other members of IDOC.
2. The person concerned and the appointing authority may call witnesses. They shall make an explicit written request to the chairman to that effect, specifying the facts in respect of which the witnesses are to be heard and the grounds for hearing them.
3. The Disciplinary Board shall assess the relevance of the proposed testimonies relating to the alleged breaches and whether the witnesses called for by the person
concerned or by the appointing authority should be heard orally or in writing. The person concerned and the appointing authority are informed thereof.

4. The Disciplinary Board may also call witnesses. The person concerned and the appointing authority shall be informed thereof.

5. The person concerned or his or her representative, as well as the representative of the appointing authority, shall be entitled to be present at the hearing of witnesses. They shall be entitled to cross-examine the witnesses if necessary.

6. In exceptional circumstances and by way of derogation to paragraph 5, upon duly motivated request from a witness or at the chairman’s initiative, a witness may be heard in the absence of the person concerned. In this case, the witness shall be heard in the presence of a representative of the person concerned as well as of the representative of the appointing authority.

**Article 37**

_Hearing before the Disciplinary Board_

1. The hearing shall take place no less than 10 working days after the person concerned has received the invitation to the hearing, unless otherwise agreed with the person concerned. The hearing may be audio recorded.

2. If, for objective reasons, the person concerned cannot attend the hearing, he or she shall be given the opportunity to be represented by a person of his or her choice, or may be asked to comment on the report referred to in Article 34 and to reply to questions of the Disciplinary Board in writing, by a fixed deadline.

3. Failure by the person concerned to be represented or to submit written comments by the deadline referred to in paragraph 2 does not preclude the Disciplinary Board from issuing, in the interest of proceedings, a reasoned opinion on the basis of the file.

4. The person concerned shall be granted no less than 10 working days to submit written comments and shall be requested to submit them at the latest 5 working days prior to the hearing.

5. The chairman and the members of the Disciplinary Board may question both the person concerned or his or her representative and the representative of the appointing authority. The person concerned or his or her representative and the representative of the appointing authority may raise questions to the other party, under the authority of the chairman.

6. If witnesses are heard, they may be questioned by the chairman and the members of the Disciplinary Board, the person concerned and his representative, and the representative of the appointing authority.

7. The secretary of the Disciplinary Board or his or her alternate shall draw up records of the witnesses’ hearings, which shall be signed by him or her and by the witnesses. These minutes shall be attached to the Disciplinary Board's opinion. The hearing may be audio recorded.

**Article 38**

_Hearing by the appointing authority_

1. After having been notified of the reasoned opinion of the Disciplinary Board, the person concerned shall be invited to a hearing by the appointing authority. The
hearing shall take place no less than 10 working days from the date of receipt of the reasoned opinion of the Disciplinary Board by the person concerned, unless otherwise agreed with the person concerned.

2. The hearing may be conducted by videoconference and be audio recorded.

3. The person concerned shall be entitled to be accompanied or assisted by a person of his or her choice.

4. If, for objective reasons, the person concerned cannot be heard in person, he or she shall be given the opportunity to be represented by a person of his or her choice, or may be asked to submit within a fixed deadline, in writing, comments on the case.

5. Where the person concerned fails to be represented or to submit written comments within the deadline referred to in paragraph 4, the appointing authority shall take its decision, in the interest of the proceedings, on the basis of the file.

Article 39
Decision by the appointing authority

In the light of the hearing referred to in Article 38 and of all other documents in the file, the appointing authority shall decide either:

(a) to close the case without imposing any penalty;

(b) to address a warning to the person concerned pursuant to Article 3(1)(b) of Annex IX to the Staff Regulations;

(c) to impose one of the penalties provided for by Article 9 of Annex IX to the Staff Regulations commensurate with the seriousness of the misconduct.

For the purpose of point (b), Article 26(3) of this Decision shall apply.

CHAPTER X
Impact of other procedures on disciplinary proceedings

Article 40
Parallel criminal prosecution

1. The person concerned shall provide the appointing authority with evidence that he or she is the subject of criminal prosecution in a given Member State relating to the same facts that have given rise to disciplinary proceedings, as soon as he or she is informed of the prosecution.

2. Where the person concerned is prosecuted at national level in a Member State, this shall not prevent the appointing authority from opening parallel disciplinary proceedings relating to the same facts. However, in accordance with Article 25 of Annex IX to the Staff Regulations, the appointing authority shall not take a final decision on disciplinary measures until a final judgment has been handed down by the national court hearing the case. The appointing authority shall not be prevented from opening or continuing a disciplinary proceeding if the case has been closed according to national law.
3. Where criminal and disciplinary proceedings concern the same facts, the appointing authority shall be bound by the factual findings of the decision in the criminal procedure.

4. The appointing authority may impose a disciplinary penalty for facts constituting non-compliance with obligations under the Staff Regulations regardless of whether the criminal proceedings have resulted in a criminal conviction.

CHAPTER XI

Suspension of a staff member

Article 41
Suspension proceedings

1. The appointing authority may, at any time and even before the opening of an administrative inquiry or of pre-disciplinary or disciplinary proceedings, decide to suspend a staff member immediately on the basis of a preliminary assessment as referred to in Article 10 of this Decision and pursuant to Article 23 of Annex IX to the Staff Regulations.

2. Save in exceptional circumstances, before deciding on suspension, the appointing authority shall hear the person concerned orally.

3. Without prejudice to the powers conferred to it by Article 23(2) of Annex IX to the Staff Regulations, the appointing authority may issue the director of IDOC with a mandate to hear the person concerned orally on its behalf. The record of the hearing shall be transmitted to the appointing authority. The hearing may be audio recorded.

4. Prior to the hearing, and save in exceptional circumstances, the person concerned shall be informed of the alleged misconduct and, subject to the protection of the legitimate interests of third parties and the confidentiality of pending national or administrative proceedings, of copies of documents relating directly to the alleged misconduct.

5. The person concerned may be accompanied or assisted at the hearing by a person of his or her choice.

6. If, for objective reasons, the person concerned cannot be heard in person, he or she shall be given the opportunity to be represented by a person of his or her choice, or may be asked to submit comments in writing, by a fixed deadline.

7. Where the person concerned fails to be represented or to submit written comments by the deadline referred to in paragraph 6, the appointing authority shall take its decision, in the interest of the proceedings, on the basis of the file.

Article 42
Decision by the appointing authority

1. The appointing authority’s decision shall state whether the person concerned is suspended for a specified or indefinite period and whether part of his or her remuneration is to be withheld under the conditions provided for in Article 24 of Annex IX to the Staff Regulations.
2. The appointing authority may decide to reintegrate the person concerned at any time upon a duly reasoned request from that person or at its own initiative.

**Article 43**  
*Access rights of the suspended staff member*

1. During the period of suspension, the staff member’s rights of access to the Commission’s premises and/or IT services may be limited or withdrawn.

2. The decision referred to in Article 42 shall specify the extent to which these rights are limited.

**CHAPTER XII**

**Prevention and publicity**

**Article 44**  
*Prevention*

IDOC shall provide training and undertake other awareness-raising activities on disciplinary matters for staff members.

**Article 45**  
*Publication of the results of disciplinary cases*

Summaries of the disciplinary decisions adopted shall be published annually in an anonymous format.

**CHAPTER XIII**

**Final provisions**

**Article 46**  
*Repeal*


**Article 47**  
*Date of taking effect and application*

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

2. It shall also apply to inquiries and disciplinary procedures in progress on that date.
3. Acts performed under Commission Decision C(2004)1588 during administrative inquiries, pre-disciplinary proceedings, disciplinary procedures and suspension procedures in progress on the date of adoption of this Decision shall remain valid for the purposes of this Decision.

Done at Brussels, 12.6.2019

For the Commission
Günther H. OETTINGER
Member of the Commission