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Subject: Revised Operation Plan (OPLAN) for the European Union rule of law  
Mission in Kosovo, EULEX KOSOVO

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Delegations will find attached the partially declassified version of the above-mentioned document.



**COUNCIL OF  
THE EUROPEAN UNION**

**Brussels, 25 February 2011**

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**COVER NOTE**

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From : European External Action Service  
To : Political and Security Committee

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Subject: Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO

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In view of the PSC meeting on 1 March 2011, delegations will find attached EEAS document CPCC 1895/11 regarding the revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO.

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Encl. EEAS document CPCC 1895/11

# EUROPEAN EXTERNAL ACTION SERVICE



## Civilian Planning and Conduct Capability – CPCC

Brussels, 25 February 2011

CPCC 1895/11  
(st 6801/11)

**RESTREINT UE**

**COPS  
PESC  
CIVCOM  
COSDP  
JAI  
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EU-LEX**

### **NOTE**

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From: European External Action Service  
To: General Secretariat of the Council

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Subject: Revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO

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The General Secretariat of the Council will find attached the EEAS document CPCC 1895/11 regarding the revised Operation Plan (OPLAN) for the European Union rule of law Mission in Kosovo, EULEX KOSOVO.



## CODE OF CONDUCT AND DISCIPLINE

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## 1. PRINCIPLES

- 1.1 The following principles are based on the document of the Council of the European Union, 8373/05 (18 May 2005).
- 1.2 EULEX KOSOVO staff members come from different cultures and legal systems and represent varying levels of training and experience. Many EULEX KOSOVO staff members have served as members of the Judiciary, professional police organisations, custom services and correctional services within their home countries. Nonetheless, in pursuance of their mission, all staff members are to apply the same standards of personal and professional behaviour. The Mission and all staff members will comply with the Generic Standards of Behaviour for CSDP Operations, particularly in relation to the tenets of mainstreaming of human rights and gender. The maintenance of the highest personal and professional standards is crucial in order to create and maintain confidence and trust in the EU. Unless otherwise provided, this Annex will also apply to international judges and prosecutors of the Mission. The implementation of this Annex will respect the principles of independence of the Judiciary and autonomy of the Prosecutors Offices. These principles also encompass the functional independence and autonomy of the supporting staff assigned to respectively judges and prosecutors.
- 1.3 It is imperative that all staff members are fully aware not only of their rights and obligations but also of the appropriate standards of behaviour that are expected of them and that they understand the reasons for such standards in the discharge of their duties. It is the responsibility of supervisors and line managers at all levels to ensure that these values and standards are accorded high priority, are fully explained to all staff-members and are applied in a consistent manner. Unacceptable or inappropriate behaviour will be met by prompt and decisive action. Supervisors and line managers should consider it their special responsibility to lead by example and discharge in full their duty of care.
- 1.4 The purpose of these standards of behaviour is to provide guidance to all staff members as to the standard of behaviour expected from them.

- 1.5 It is the supervisors' responsibility to maintain appropriate standards of behaviour among staff members and to ensure the appropriate education and guidance to staff members as to the required standards. It is a function of leadership to respect and protect the rights and interests of subordinates as well of as those with whom they interact.
- 1.6 The present standards of behaviour are complementary to legal obligations of staff members before the international law and the law of the state of their origin. In order to ensure that these standards of behaviour are upheld, adherence to principles such as impartiality, integrity, gender equality, courage, discipline, loyalty and respect for human rights and diversity is essential. Staff members should at all times exercise patience, tolerance, tact, diplomacy, good judgement and common sense. Staff members shall conduct themselves in an acceptable manner both on and off duty.
- 1.7 Staff members should adhere to the present standards in order to ensure appropriate behaviour in their relations with the local population but also in order to contribute to the moral cohesion and image of the Mission. The clear demonstration of personal integrity will help establish the credibility and authority of the Mission and it is essential to the establishment of trust with the local population.

The impartial and objective pursuit of the Mission's mandate, regardless of provocation and challenge, is essential for preserving the legitimacy of the operation and in maintaining, where appropriate, the consent and cooperation of all parties involved.

- 1.8 The following standards of conduct are based on European and international best practices for justice, police and civilian professionals and reflect the attitudes and behaviour expected of all staff members. These standards of conduct are to be considered as a written order applicable to all staff members. Failure to adhere to any of the following sections constitutes grounds for the initiation of disciplinary process that may result in disciplinary measures. This is independent of possible criminal procedures.



## **2. GENERAL BEHAVIOUR REQUIREMENTS**

EULEX KOSOVO staff members will conduct themselves professionally, will respect the law in force and will adhere to all Mission-specific rules and regulations. In addition to the responsible performance of their assigned duties, staff members shall maintain a civil and dignified behaviour when interacting with other staff members or with the general public.

### **2.1 Discriminatory conduct**

Staff members – representing a diversity of men and women of different nationalities, ethnic groups, religions and cultural backgrounds – will show respect towards the other staff members. No behaviour that can be construed as oppressive, abusive, discriminatory, or that is likely to cause offence or humiliation will be tolerated.

All people must be treated with dignity and respect, regardless of gender, age, ethnic origin, religion or belief, sexual orientation, disability, social or economic status or political and philosophical views or any other grounds. Condescending and discriminating remarks or gestures will not be tolerated.

### **2.2 Use of foul or obscene language or gestures**

At no time will any staff member use foul, obscene, vulgar or otherwise offensive speech or gestures that could be considered to be abusive to any other Mission staff member or to any member of the public. Staff members will at all times conduct themselves in a manner consistent with the high level of professionalism expected of staff members.

### **2.3 Assault or physical abuse and violence**

Except in cases of self-defence or in cases of the defence of the weak and the helpless, no staff member will become a participant in any physically combative situations whether it is with staff members or members of the general public.

## **2.4 Sexual harassment**

It is incumbent upon all staff members to conduct themselves with decency at all times and for their conduct to be above reproach. It is imperative that any sexual relationship that may develop among staff members or between a staff member and a member of the general public is with mutual consent. No interaction that could be construed by either party as sexual harassment, exploitation or abuse can be tolerated.

Sexual harassment for the purposes of this document includes any unwelcome sexual advance, request for sexual favours or other lewd verbal or physical conduct. It also includes the display or distribution of pornographic material at the work place.

## **3. PROFESSIONAL CONDUCT REQUIREMENTS**

The following regulations provide general guidance for the professional conduct of EULEX KOSOVO staff members.

### **3.1 Failure to Obey**

In order to ensure that the Mission mandate is implemented as required, each staff member must obey all lawful orders s/he receives from supervisors. International judges and prosecutors will discharge their judicial and prosecutorial duties in accordance with the principles under 1.2.

### **3.2 Failure to Supervise staff members**

A failure to supervise staff members properly amounts to a violation of professional standards by staff members with supervisory functions. In order to ensure that all line managers fulfil their role and responsibilities as supervisors and managers, it is necessary for them to be responsible and accountable for the actions of staff members under their command as far as the work situation is concerned.

The personal conduct of supervisors has a direct effect on that of their subordinates. Therefore, they are to ensure that their own professional and personal behaviour is of the highest standard in order to inspire the same in their subordinates. In addition, they are to ensure that the required standards of behaviour are known and adhered to by their staff members.

### **3.3 Job Requirements**

Staff members shall carry out promptly and completely all lawful orders, instructions, directives and required duties and shall not knowingly neglect any duties assigned to them. Staff members shall appropriately account for any monies or property assigned to them in their official capacities and shall maintain all such allocations in good order.

These requirements will be construed for international judges and prosecutors in accordance with the principles under Article 1.2. Judges and prosecutors will not be subject to any order, instruction, directive directly pertaining to the exercise of their judicial and prosecutorial functions.

### **3.4 Truth and Accuracy in Reporting**

Staff members shall ensure that any report or statement made by them is accurate and comprehensive to the extent possible. No staff member shall knowingly make any false, misleading or inaccurate oral or written statement or entry in any official record or document.

### **3.5 Alteration or Destruction of Official Reports**

No staff member shall, at any time, without proper authorisation, destroy, damage or alter any official paper or electronic document.

### **3.6 Disclosure of Information**

No staff member shall at any time disclose any information that falls under professional secrecy

obtained during the course of his or her employment with the Mission.

This includes, but is not limited to, the identities of individuals, political information, operating procedures or any other information that may cause prejudice to the security of individuals, or that may cause public danger, disorder or crime or may adversely affect national security.

Staff members are expected to maintain the highest ethical standards and to consider that the duty of care towards individuals continues post-assignment.

The same standards apply in respect of the protection of the reputation and image of the EU and the Mission. However, it is the right and obligation of staff members to report through the appropriate chain of command any cases of malpractice, corruption and incompetence.

Statements by staff members to the press, newspaper, radio or television or any other media are not permitted, unless proper authorisation from the Head of Mission is obtained through the appropriate chain of command. A failure to comply with this article will be considered a major breach of regulations. International judges and prosecutors may address the media in accordance with the rules and regulations applicable to the dissemination of information to the media by the local judiciary and prosecutors offices.

Staff members will refrain from creating personal blogs which contain personal, operational or photographic material which can jeopardise their own security, that of their colleagues or that of the Mission.

### **3.7 Improper Use of Authority**

No staff member will use, or attempt to use, his or her authority in such a manner as to gain special favours or benefits. Staff members are not allowed to accept or offer any gift, favour or free duties from or to the local population. Neither will any staff member respond to any member of the public in a manner that may be construed as abusive or oppressive.

Staff members will treat their subordinates fairly and impartially without the practice of favouritism or preferential treatment. Staff members will ensure that all lawful debts incurred by them are satisfied and they shall never attempt to utilise the name of the Mission and the status accorded to it in order to default on or to reduce such debts.

### **3.8 Maintenance of Mission Property**

Staff members shall maintain all Mission property entrusted to them in good order and shall immediately report any damage, breakage or loss of such property through appropriate channels. Staff members shall not utilise Mission assets for personal use unless expressly authorised in writing through the proper chain of command.

Any damaged, destroyed or lost / missing Mission property must be reported immediately.

### **3.9 Use of Vehicles**

A staff member found to be in violation of any provision relating to the use of Mission vehicles may be considered to be in breach of the present standards of conduct.

### **3.10 Use of Mission Networks**

EULEX KOSOVO communications network (including phones, internet, email and all other communications equipment) is being provided to the mission members for the performance of their official duties. The misuse of the network and equipment by way of communicating, transmitting or storing offensive, pornographic or discriminatory material will be considered a violation of these procedures.

It is not allowed to store private documents in EULEX KOSOVO network system.

### **3.11 EULEX KOSOVO Dress Code**

Staff members should consider themselves as representatives of their respective governments as well as of the European Union, and are perceived as such by the general public. They are therefore expected to adhere to standards of dress and appearance that are in keeping with decency and take into consideration local customs and traditions. Staff members, while on duty, should dress in accordance with the nature of their tasks.

Supervisors at each level shall ensure proper attire and / or appearance of staff members and may require the staff members to change it, if it distracts the attention of other staff members from their work, or otherwise violates what can be considered as decent and proper. Repeated violations of this policy may result in disciplinary action.

When practicable, EULEX KOSOVO police and correctional officers wear their national police uniform with the Mission armlet / cloth insignia while on duty or while travelling on duty in Mission vehicles, unless otherwise authorised. It is expected that uniforms be neat, clean and worn in a professional manner at all times. The official national uniform shall under no circumstances be varied or combined with private or civilian clothes.

Police officers may wear civilian clothing during off-duty hours. This procedure may be altered or amended by the Head of Mission, according to the Mission requirement.

### **3.12 Absence from Duty**

Staff members shall not, without proper authorisation or notification, be absent from duty or leave any assigned duty. Illness, medical emergency or any other unusual circumstance preventing a staff member from reporting for duty must be conveyed to the staff member's superiors as soon as possible. In addition, staff members will ensure that any scheduled leave or absence is documented in accordance with the relevant Mission regulations.

### **3.13 False Claims or Benefits**

Staff members shall not knowingly misrepresent or make a false certification in connection with any claim, benefit or investigation. This includes failure to disclose a fact that may be relevant for claim or investigation.

### **3.14 Acceptance of Gratuities**

In order to maintain the level of neutrality integral to the Mission, staff members must refrain from accepting gratuities from members of the local community or others. While it is not intended that staff should disregard gestures of human kindness and acceptance, it is not appropriate, and will be considered unacceptable, for staff members to accept items of value without prior approval from the Head of Mission. The power of approval can be delegated by the Head of Mission.

## **4. PROHIBITED ATTITUDES**

### **4.1 Consumption of Alcohol**

Staff members will not consume alcoholic or intoxicating beverages while on duty and will not report for or be on duty or appear in public in a state of intoxication. In addition, staff members will exercise restraint in their consumption of alcohol while off-duty, remembering that staff members at all times represent both the Mission and their Contributing States.

Any staff member who consumes alcohol to such a level that s/he may behave in an unseemly or inappropriate manner will be deemed to be in violation of this code. No staff member will consume alcohol whilst carrying a weapon at any time.

### **4.2 Illegal use of Narcotics or Drugs**

Staff members will not at any time consume or possess any illegal drug or narcotic, including cannabis, or any of its derivatives.

### **4.3 Sexual Services**

Attending or soliciting sexual services from places of prostitution or from trafficked persons is strictly forbidden. No staff member shall in any place within the Mission area procure the services of a trafficked person or attend any properties or establishments known for or suspected of promoting prostitution or the trafficking in human beings, including children (persons under 18 years of age), unless they are attending these places during the course of official operations. All such operations must have the prior approval of the respective chain of command.

Staff members are not allowed to procure, profit from, or facilitate prostitution or trafficking of human beings, or have any kind of relationship, professional or otherwise with anyone who promotes or facilitates, or who could be suspected of promoting or facilitating, prostitution or trafficking in human beings, unless such professional relationship is established in the course of an official operation. All such operations must have the prior approval of the Head of Police Component.

### **4.4 Relationships with Local Population**

It is imperative that staff members remain objective and independent in the performance of their duties. The development of any type of personal relationship with those members of the community that may come into contact with staff member on a professional basis can damage the objectivity and must be handled with extreme caution and discretion.

The Mission does not encourage the development of any relationship of an intimate nature with persons from KOSOVO. The mores and behaviour appropriate in the home country of a staff member may not be accepted or tolerated by the population in Kosovo.

Staff members will respect local authorities, local laws, their local culture, traditions, customs and practices unless they contradict international humanitarian law or human rights. They will treat the inhabitants of Kosovo with respect, courtesy and consideration, taking into consideration the views of the inhabitants, including women and children, in conflict resolution efforts and post-conflict



reconstruction.

The issues related to children affected by armed conflict should be addressed in line with EU policy, based on UNSC 1612 Resolution.

## **5. INVOLVEMENT IN CRIMINAL ACTIVITIES**

5.1 A proven involvement in serious criminal activity constitutes grounds for immediate repatriation or termination of contract. In this respect, the following crimes and / or attempted crimes constitute serious criminal activity:

- a) Fraud
- b) Theft
- c) Robbery
- d) Burglary
- e) Rape and sexual harassment
- f) Child Abuse
- g) Trafficking in Human Beings
- h) Arson
- i) Assault
- j) Murder
- k) Use, sale, possession or distribution of narcotics or drugs
- l) Illegal possession of firearms, ammunition or explosive
- m) Corruption
- n) Organised crime

Criminal activity includes, but is not limited to, above mentioned acts.

## **6. ACTING AS AN ACCESSORY TO A DISCIPLINARY OFFENCE**

Any EULEX KOSOVO staff member found to be an accessory to any violation shall be considered as a principal and shall be subject to investigation.

## **7. REPORTING OF VIOLATIONS OF THE CODE OF CONDUCT**

7.1 It is the right and obligation of all EULEX Kosovo staff members to report cases of malpractice, misconduct, incompetence and criminal activity.

7.2 All alleged breaches of the SOPs and other applicable rules and regulations must be reported, normally through the Mission chain of command to the Head of Mission, if the source of information is a staff member, the report must be submitted in a written form.

If a staff member discovers information about another staff member that may have serious implications for the Mission, or that may constitute a breach of Law or a breach of Mission regulations, Mission SOPs or the present Code of Conduct and Discipline, he/she will not disclose that fact to any other person other than his or her direct supervisor or a member of the mission hierarchy that is entitled to deal with the case in question.

All reports pertaining to an international judge and/or an international prosecutor will also be copied respectively to the President of the Assembly of EULEX Judges and/or the Chief EULEX Prosecutor.

## **8. DISCIPLINE**

### **8.1 General**

A EULEX KOSOVO staff member found to be in violation of any parts of the Mission standards of conduct will be dealt with in accordance with the Mission Disciplinary Procedures. Disciplinary action may be taken following the findings and recommendations of the investigative process.

## 8.2 Authority

- 8.2.1 The Head of Mission is responsible for disciplinary control over all staff members.
- 8.2.2 For all seconded staff members, disciplinary action shall be of the responsibility of the national (relevant Contributing State) or EU authority.
- 8.2.3 For contracted staff members, both local and international, disciplinary action shall be exercised by the Head of Mission, unless the contracted staff is an international judge or prosecutor against whom disciplinary sanctions may still be exercised in his / her country of origin.
- 8.2.4 All staff members must adhere to the present Code of Conduct and Discipline, the Standard Operating Procedures in place and all other directives, contractual obligations and orders. The Mission has to account for their conduct at all times whether on or off duty.
- 8.2.5 Staff members are expected to cooperate fully during potential internal investigations and inquiries. Any interference or obstruction by a staff member during the disciplinary process is considered to be a breach of the Code of Conduct.
- 8.2.6 The Head of Mission may, at his or her discretion, suspend a staff member under “disciplinary proceedings”. The period of suspension will be determined by the Head of Mission and may be extended until the determination of appeal proceedings if the Head of Mission deems it necessary.

While suspended, the staff member shall not enter his or her office or any other Mission premises without the prior consent of the Head of Mission. The suspended staff member shall not drive or enter any Mission vehicle unless given prior consent by Head of Mission. The suspension shall not, however, affect any other rights or obligations

emanating from the secondment or employment of the suspended staff member unless otherwise decided by the Head of Mission.

In the case of Judges and Prosecutors, the Head of Mission will seek the prior assent of respectively the President of the Assembly of EULEX Judges and the Chief EULEX Prosecutor. The Disciplinary Board on Judges and Prosecutors will convene as soon as possible to confirm or revoke the suspension.

The National Contact Point / Contingent leader and Line Manager should be informed accordingly.

- 8.2.7 No staff member foreseen in the chain of internal investigations will be involved in any investigation if there is a conflict of interest, or if the staff member concerned belongs to the same national contingent. This does not include pre-investigation and official notifications made during investigations.

### **8.3 General objective of internal investigations procedures**

The purpose of internal investigations and inquiries is to objectively determine and report the facts surrounding an incident in question, to enable the appropriate disciplinary authority to make an informed decision about discipline.

### **8.4 Preliminary Investigation**

- 8.4.1 In case of a reported or detected alleged breach of the Code of Conduct and Discipline, SOPs and other directives and orders, including orders and instructions of judges and prosecutors, the Head of Mission<sup>1</sup> instructs the Head of the Internal Investigations Unit (HIIU) to conduct a preliminary investigation. The national contact point / contingent leader should be informed accordingly. In case of a reported or detected alleged breach

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<sup>1</sup> All references to the Head of Mission in section 8.4 and 8.5 are extensive to the Deputy Head of Mission in case of delegation of powers, unless specifically stated otherwise.

of the Code of Conduct and Discipline, SOPs and other directives and orders by an international judge or prosecutor, the Head of Mission will seek the prior assent of respectively the President of the Assembly of EULEX Judges and / or the Chief EULEX Prosecutor before ordering the HIIU to conduct a preliminary investigation.

- 8.4.2 The HIIU shall make an analysis of the incident that allegedly occurred, identify the staff involved and record accounts of the complainant(s), witness(es) and victim(s). The consequences for those involved and an assessment of how the incident has affected the image of the Mission must also be included in this analysis.
- 8.4.3 The HIIU may find that further information is required to conclude the Preliminary Investigation Report (PIR). The incriminated staff member's line manager may be requested to expediently submit a confidential Statement of Facts (SoF) with regard to the allegation. In the case of an incriminated international judge or prosecutor, the line manager will respectively be the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor.
- 8.4.4 This PIR must be forwarded within ten (10) working days to the Head of Mission with verification of the case and indication of the alleged breach. This PIR will be simultaneously copied to the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor if the incriminated staff member is respectively-an international judge or prosecutor. The Head of Mission decides within three (3) working days if the case is to be closed or further investigated. The Head of Mission will seek-the prior assent of the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor before reaching a decision if the incriminated staff member is respectively an international judge or prosecutor.
- 8.4.5 No disciplinary case involving staff members will be closed without the approval of the Head of Mission.

8.4.6 In case of a decision to close a case, this decision shall immediately be communicated to the complainant who has the right to interject an appeal within 5 (five) working days from the notification of this decision. This appeal must be directed to the Head of Mission who will judge on the merits of the appeal and can order either a continuation of the investigation or its final closure. The complainant, the person under investigation, the NCL/NCP should be informed accordingly. The Head of Mission will seek the prior assent-of the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor before reaching a decision if the incriminated staff member is respectively an international judge or prosecutor.

8.4.7 This decision is final, without prejudice to legal means.

## **8.5 Investigation Procedure**

8.5.1 If the reported activity constitutes a breach of Code of Conduct and Discipline, SOPs and other directives and orders, the Head of Mission will instruct the HIIU to conduct a thorough investigation. The Head of Mission will seek the prior assent of the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor before reaching a decision if the incriminated staff member is respectively an international judge or prosecutor.

8.5.2 The HIIU is responsible for informing as soon as possible in writing (Notice of Allegations: NoA) to the incriminated staff member with a copy to his or her line manager and the relevant national authority, if applicable.

8.5.3 The HIIU is responsible for carrying out investigations in a proper way and without undue delay. The investigation shall be accurate, objective, encompassing and impartial. The allegations regarding a possible breach of conduct will be regarded as such. In order to ensure smooth proceedings, after completing a thorough investigation, HIIU may request a final statement from the person concerned. The staff member in question is entitled to make the final decision on whether to provide such a statement. The final

statement shall be given to the HIIU within three (3) working days of the request.

8.5.4 All findings will be included in a Final Investigation Report (FIR) as a summary. All other material produced during the process will be stored in to a Case File as Annexes of FIR.

8.5.5 The HIIU is under obligation to inform the Head of Mission of the progress made in the investigation. In the case of an incriminated international judge or prosecutor, the HIIU will also respectively inform the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor.

8.5.6 Upon completion of the investigation, the HIIU will submit the FIR, along with the whole case file, to the Head of Mission. The FIR will be simultaneously copied to the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor if the concerned mission member is respectively an international judge or prosecutor. This should happen no later than twenty (20) working days after the opening of the investigation.

In case of special circumstances, the Head of Mission may grant an extension of this period commensurate with the circumstances at hand but no longer than 40 working days.

In the case of an international judge or prosecutor, the Head of Mission will seek the prior assent of the President of the Assembly of Judges or the Chief Prosecutor before granting this extension.

8.5.7 If the allegations are not substantiated, the Head of Mission will close the case and accordingly inform staff member concerned in writing. A copy of this notification will be sent to the staff member's line manager and the relevant national authority, if applicable.

8.5.8 In case of a decision to close a case, this decision shall be immediately communicated to the complainant who has the right to launch an appeal within 5 (five) working days from the notification of this decision. This appeal must be directed to the Head of Mission who will consider the merits of the appeal and can order either a continuation of the investigation or its final closure. This decision is final, without prejudice to legal means. The complainant, the person under investigation, the NCL/NCP should be informed accordingly. The Head of Mission will seek the prior assent of the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor before reaching a decision, if the concerned staff member is respectively an international judge or prosecutor. The authority of the Head of Mission under this provision can not be delegated.

## 8.6 **Rights and Obligations of Staff Members under Investigation**

8.6.1 Staff members under investigation as mentioned under 8.5 have to be informed in writing of the specific allegation(s) made against them.

8.6.2 All communications shall be conducted in English. The HIIU shall ensure that the concerned staff member understands the detailed nature and cause of the allegations made against him / her.

8.6.3 A staff member subject to investigation is entitled to legal advice and representation during interviews by the HIIU or the Disciplinary Board. The legal advice can be sought internally or privately. Expenses for private legal counsel are the responsibility of the staff member concerned.

8.6.4 Staff members under investigation will be encouraged to answer questions during the investigation and submit all documentation requested by the HIIU. However they are not obliged to incriminate themselves and the decision whether to comply with such a request by the HIIU is at their own discretion.



- 8.6.5 A staff member under investigation may provide a written or an oral statement. In the latter case, the investigator will issue a summary of the statement to be signed by both the concerned mission member and the investigator. Any complaint and observation about the conduct of the interview should be recorded at the end of the interview.
- 8.6.6 Staff members involved in internal discipline investigations must treat information and documentation that is pertinent to the enquiry with strict confidentiality in order to protect the privacy of all those involved. The HIIU shall in particular respect the confidentiality linked to on-going or completed judicial proceedings.
- 8.6.7 All EULEX KOSOVO staff members shall cooperate with the HIIU if so required. Requests for information and documentation should be dealt with expeditiously. Any deliberate delay likely to be detrimental to the investigation will be considered a separate violation of the present Code of Conduct. Subject to the confidentiality of judicial proceedings, the HIIU will seek the prior assent of the President of the Assembly of Judges or the Chief Prosecutor before seeking the cooperation, information or documentation from international judges and prosecutors or their supporting staff if the concerned mission member is respectively an international judge or prosecutor.

## **8.7 Disciplinary Actions**

- 8.7.1 If the allegations are substantiated and upon reception of the FIR, the Head of Mission will designate a Disciplinary Board (DB) consisting of a chairperson, a member, the Legal Adviser and a secretary as a non-voting member. The persons who can sit as voting members on the DB shall be senior to the incriminated staff member, when possible.

Voting member of the DB should not belong to the same National Contingent than EULEX KOSOVO staff members concerned. Voting member of DB should be free from any conflict of interest.

- 8.7.2 If the staff member concerned is an international judge, the President of the Assembly of Judges will designate three judges to the DB, two of them elected by the Assembly of EULEX Judges by secret ballot for a pre-defined period of time, and a secretary as a non-voting member. The President of the Assembly of EULEX Judges may invite the Chief EULEX Prosecutor to appoint one international prosecutor to the panel to replace one of the judges.
- 8.7.3 If the staff member concerned is an international prosecutor, the Chief EULEX Prosecutor will designate three international prosecutors to the DB and a secretary as a non-voting member. The Chief EULEX Prosecutor may ask the President of the Assembly of EULEX Judges to appoint one international judge to the panel to replace one of the prosecutors.
- 8.7.4 Both the President of the Assembly of EULEX Judges and the Chief EULEX Prosecutor may be members of the DB.
- 8.7.5 Each voting member of the DB will review all reports pertaining to the investigation before the DB submits a decision. The decision should contain a statement of reasons.
- 8.7.6 The staff member under investigation may decide whether or not to answer questions or submit documentation requested by the DB.
- 8.7.7 The DB may call upon any staff member to testify during its proceedings.
- 8.7.8 Each DB member must keep all information received or given to him or her in the course of the investigation strictly confidential in order to protect the privacy and security of all people linked to the investigation (accused, witnesses, victim etc.)
- 8.7.9 The DB will arrive at a decision based on a simple majority vote and will provide a written report of this decision to the Head of Mission without delay. If the concerned

staff member is an international judge or prosecutor, a copy of the decision will be provided to respectively the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor.

- 8.7.10 The DB will decide within five (5) working days on the appropriate recommended disciplinary measures or dismissal of allegations and this decision together with a copy of the FIR shall be sent to the accused staff member and to the complainant / victim. This copy should not contain any professional privileged information or information which could endanger the security of EULEX, Kosovo or any Contributing State, or the personal safety of individuals including protected-witnesses. A disciplinary procedure solely based upon the declarations of a protected witness will guarantee the procedural rights of the concerned staff member. A recommended disciplinary measure may not be based either solely or to a decisive extent on anonymous statements. The period of appeal starts from the moment of this notification.
- 8.7.11 At the conclusion of the DB, all documents received by the DB will be returned to the HIIU.
- 8.7.12 After the expiration of the right to appeal, the Head of Mission will communicate the disciplinary decision, including the recommended disciplinary measures, to the relevant National or EU Authority. This Authority shall make its decision on the disciplinary action and shall notify the Head of Mission on the content of its decision.
- 8.7.13 In the case of non-seconded local and international staff members, unless the contracted staff member is an international judge or prosecutor against whom disciplinary sanctions may still be exercised in his / her country of origin, the decision of the DB will contain disciplinary measures to be implemented by the Head of Mission him- or herself.

## **8.8 Appeal Procedures**

8.8.1 Staff members concerned have the right of appeal against any decision recommending disciplinary action or dismissal of allegations, within five (5) working days from the official notification.

8.8.2 In case of appeal it is the responsibility of the Head of Mission to review the file and alter or confirm the decision of the DB.

If the staff member concerned is an international judge, it is the responsibility of the Assembly of Judges to rule on the appeal.

If the staff member concerned is an international prosecutor, it is the responsibility of a different DB as provided under 8.7 to rule on the appeal.

8.8.3 The Head of Mission will decide on the appropriate recommended disciplinary measures and this decision shall be final and shall be sent to the relevant National or EU Authority, through EEAS (CPCC).

8.8.4 Line managers and National Contingent Leaders / National Point of Contact are informed of the decision of the DB and final disciplinary decision, by the Head of Mission.

## **8.9 Recommended Forms of Discipline**

8.9.1 As mentioned above, the recommendations for disciplinary action will be given in a written form by the Head of Mission, and addressed to the respective National or EU Authority, if applicable. These recommended actions will include at least one or more of the following forms of discipline:

- verbal warning and counselling;

- written warning by the National or EU Authority or his / her designate, with a copy to the Head of Mission;
- reassignment of duties;
- removal from position of command;
- redeployment to a different location;
- recommendation for repatriation to the National or EU Authority;
- recommendation for termination of contract, in the case of contracted staff members;
- in cases where rules on the use of Mission vehicles or laws on traffic safety are violated, recommended actions may include additionally a fixed term ban on driving Mission vehicles.

8.9.2 All decisions imposing / recommending a sanction shall be duly recorded in the staff member's personal file. This record may justify a denial for extension of the Tour of Duty or contract.

8.9.3 In circumstances when the Head of Mission is not satisfied with the content of the National or EU Authority disciplinary action, the case will be routed through EEAS (CPCC) to the relevant national or EU authorities.

8.9.4 These disciplinary measures are without prejudice to any possible judicial action, if the nature of the breach carries such implications.

## **8.10 Records**

The HIIU must:

- follow the proceedings of all pending cases and report to the Head of Mission if there are any delays;
- keep a sealed record of all cases, findings and decisions taken, including decisions to close the case or to reverse a decision of the DB;

- be responsible for informing Human Resources in order to update the staff members files and database records with regard to discipline measures imposed / recommended on staff members.

The HIIU will also report to the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor for all pending cases affecting respectively an international judge or prosecutor. The President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor will also inform the HIIU of all cases affecting respectively an international judge or prosecutor.

## **8.11 Right-of-Access Principles**

8.11.1 The staff members concerned have equal right of access to material produced during the process (investigation and disciplinary procedure).

8.11.2 The Disciplinary Board and the Head of Mission have a right of access to material produced during the process. The Legal Office has right of access to relevant material, if legal advice is requested.

8.11.3 Other right of access for disciplinary process material can be granted by the Head of Mission, on a case-by-case basis.

## **8.12 Specific Procedure regarding Serious Criminal Acts (not misconduct issues)**

8.12.1 All criminal investigations regarding staff members shall be conducted by the competent authorities of the Contributing States or EU institutions or – in the case of local staff members – of Kosovo, in accordance with the provisions of the relevant law.

8.12.2 In the case of serious criminal acts committed by a staff member, the procedure policy is as follows:

- this policy formally recognises that a staff member, on the basis of a decision made by his or her National or EU Authority in the case of seconded or contracted staff members, may be made subject to preliminary protective measures of precaution, for the purpose of investigation in circumstances when the staff member is alleged to have committed a criminal act;
- the Mission shall assist the competent authorities in implementing preliminary protective measures. This assistance may be based solely on a request submitted by the competent authorities. The decision concerning the assistance to be provided by the Mission rests with the Head of Mission and will be determined on a case-by-case basis. The Head of Mission will, wherever possible, consult respectively the President of the Assembly of EULEX Judges or the Chief EULEX Prosecutor before reaching a decision if the staff member concerned is respectively an international judge or prosecutor;
- in cases where the Mission is appropriately requested to assist the competent authorities in this respect, preliminary protective measures, which must remain within the scope of the relevant national legislation, may include only the following limited precautionary actions:
  - protective removal of a suspected staff member from the scene of crime in order to prevent her / him from destroying possible evidence;
  - protective removal of a suspected staff member from the scene of crime in order to prevent her / him from injuring her or himself;
  - protective seizure of the belongings of a suspected staff member, if allegedly used to commit a crime.

8.12.3 Should a criminal act be committed, the staff member concerned is not shielded from any temporary procedural remedy prescribed by the competent authorities.

8.12.4 In the course of such a procedure, the staff member concerned shall be afforded the

same rights as any person facing such circumstances applicable under his or her national law.

- 8.12.5 Upon being placed under preliminary protective measures, the continuance of these measures is solely subject to the determination of the competent authorities as to whether or not to prosecute the offending staff member.
- 8.12.6 Internal disciplinary measures will not be initiated can be suspended until the competent authorities have made a determination as to whether to prosecute. If the investigation pertains to an international judge or prosecutor, the Head of Mission will seek the prior consent of respectively the President of the Assembly of Judges or the Chief EULEX Prosecutor.
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## HUMAN RESOURCES

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## 1. GENERAL

- 1.1 The Mission strength for internationals is estimated to reach 1,950 staff members, including staff in four IPU/FPU.

The rules set out in this Annex are those that apply to international staff only. Local staff conditions of service are regulated under the applicable General Service Conditions of Local Staff employed by the Head of Mission of EULEX KOSOVO, serving in Kosovo.

- 1.2 The Head of Mission retains the final authority to appoint staff members and the overall responsibility to deploy them. The deployment plan is based on detailed job descriptions that are communicated to all Contributing States, as well as advertised in the official website.

- 1.3 In the light of the principle of non-discrimination and of professional merit, only those candidates that satisfy in full the criteria set out in the relevant job descriptions are selected for the Mission. The decision of non-selection of candidates should be properly justified and Contributing States and EU Institutions informed accordingly. Furthermore, EULEX KOSOVO strives for an improved gender balance in CSDP operations at all levels in conformity with UNSCR 1325. Contributing States and European Institutions are encouraged to take this into account when offering contributions. National balance is another principle to be taken into account in the case of equivalent education and professional experience between candidates.

- 1.4 The employment regimes in EULEX KOSOVO are international secondments and international contracts.

- 1.5 While the seconded staff remains under the authority of their Contributing States or EU Institutions, all staff members shall carry out their duties following the Mission chain of command and shall act in the sole interest of the Mission. Staff members who find

themselves in a situation of conflict of interests are expected to report this situation to their Mission line managers independently from their duty towards the national authorities or EU Institutions. Staff members must at all times abide by the Mission “Code of Conduct and Discipline”.

- 1.6 The level of remuneration for international contracted staff shall be based on the “Rules applicable for International Staff Contracted by CFSP Advisers or EUSRs”, as detailed in the relevant Commission Communication pertaining Specific Rules for Staff Employed by CFSP Special Advisor. It is the responsibility of the international contracted staff member to comply with all applicable national tax regulations.

An international contracted staff member shall be retired automatically on the last day of the month in which s/he reaches the age of 65. However, on an exceptional basis, an international contracted staff member may, at his / her own request and only in the case where the Head of Mission considers it crucial in the interest of the Mission, carry on working until the age of 67, in which case s/he normally shall be retired automatically on the last day of the month in which s/he reaches that age. In extraordinary circumstances the Head of Mission may grant Justice Component’s contracted staff (Judges and Prosecutors) exceptions by extending them beyond the age of 67 so they may complete the cases upon which they have been working. With regard to seconded staff members, the selected staff member should, in principle, be under the normal age of retirement regime applicable in the relevant Contributing State or EU Institution.

- 1.7 Further to the rules laid out in the present Annex, the European Commission may amend the rules and regulations for both international contracted and local staff.

- 1.8 Specific rules related to the selection, deployment, redeployment, tenure and performance of duties of international judges and prosecutors are set out in the relevant Annex M.

## 2 RECRUITMENT

2.1 All nominations for seconded positions by Contributing States', EU Institutions' and EEAS (CPCC) (hereafter included in the definition of EU Institutions) are centrally processed, first through EEAS (CPCC) and then by the Administration and Support Department of the Mission. Notifications of appointment are made through the same chain.

### 2.2 **Deployment criteria include:**

- Mission requirements;
- the individual staff member's experience, skills and professional qualifications;
- reasonable cognisance of national and gender balance;
- priority to be given to candidates for secondment regime.

Deployment conditions for international contracted staff are further detailed in the contract, Commission Communication and instruction notes issued by the Commission on the basis of the Communication.

### 2.3 **Recruitment procedure**

The objectives of the Mission recruitment procedures include:

- to ensure a fair and transparent competition for all posts within the Mission;
- to ensure the selection of the candidates on the basis of relevant competence and expertise, on the broadest possible geographical basis and gender balance;
- to clearly establish the roles and responsibilities of every actor involved in the process;
- to ensure a smooth recruitment, avoiding interruption in the filling of posts.

### **3. CALL FOR CONTRIBUTIONS**

3.1 On the basis of the Mission's requirements, Human Resources prepares the Call for Contribution and EEAS (CPCC) launches it to the Contributing States and EU Institutions. It is also published on the official EULEX KOSOVO website.

All Calls for Contributions shall include equal opportunity statements.

#### **3.2 Applications**

All applications are considered if they meet the essential requirements.

Applications are received from both seconded and contracted applicants.

Applications of seconded candidates should be submitted only through the respective national authorities in order to be properly registered.

#### **3.3 Selection Panels**

For each post, a selection panel is nominated.

#### **3.4 Application Screening**

With the assistance of the service concerned and the members of the respective selection panels, Human Resources screens the applications and verifies if the candidates meet the essential requirements for appointment as listed in the Call for Contributions.

#### **3.5 Selection Process**

A short list of candidates selected for the interviews is drawn up by the selection panel in

coordination with Human Resources. Normally, at least 3 candidates per position are called for interview. Human Resources (in co-ordination with the relevant selection panel) also takes care of the organization of interviews. Where appropriate and justified by the operational needs and the profile requirements of the position, selection can also be conducted on the basis of the application and short interviews.

The selection panel elaborates a report with a recommendation for the most suitable candidate and eventually for a second suitable candidate in case the first is not available. When possible, the report could recommend candidates for similar positions within EULEX KOSOVO.

A staff member who applies for another position within the Mission will be appointed to the new position, if selected, only in case s/he has served for at least six months in his / her current position by the time of his / her expected deployment to the new position. For seconded candidates the Contributing State or EU Institution must confirm that the staff would be entitled to serve a minimum of six months in the new position. Any exceptions to the above mentioned six-month rule are at the discretion of the HoM subject to operational requirements.

A seconded staff member is eligible for a contracted post only if his / her secondment will end within four months from the deadline for application or if a request for extension of the secondment has been submitted and not granted.

All participants to the selection process shall, at all times, comply with the principle of confidentiality and data protection requirements. In particular, they shall not release, within or outside the Mission, any information about the candidates or the selection exercise, except if explicitly tasked to do so by the Head of Mission.

### **3.6 Decision – Information to Candidates**

The reports of the selection panels are submitted to Human Resources, who will compile and submit them to the HoM, for final decision. After the decision of the Head of Mission, EEAS (CPCC), sends the selection documentation to the national or EU institutions of the seconded candidates.

In the case of contracted international staff, the successful candidate is notified directly (after approval by the Commission as required by the Special Adviser Contract between the HoM and the Commission) and given seven working days from the date of notification to accept the offer of employment.

If the successful candidate does not accept the offer of employment, the position is considered vacant and included in the next Call for Contributions, unless other candidates from the same selection are available on the list of recommended applicants by the respective selection panel.

Unsuccessful contracted candidates who have been interviewed are informed individually by e-mail of the decision regarding their application or the result of their interview.

For all other candidates information about the finalization of the selection process is posted on the official website of the Mission.

### **3.7 Availability of Selected Candidates**

When applicable, the release of the selected candidates from the relevant Contributing States or EU Institutions is requested. If, in spite of the commitment, the release date is not compatible with the start date proposed by the Mission, the candidate may be dismissed and the position is considered vacant and included in the next Call for Contributions, unless other candidates from the same selection are available on the list of recommended applicants by the respective selection panel.

### **3.8 Appointment of Staff**

For Seconded staff: The secondment is implemented by an exchange of letters between EEAS (CPCC) and the Representations to the EU of the Contributing States concerned, or the human resources department of the EU Institution concerned.

For international contracted staff: subject to the receipt by the Mission of all relevant documents, including evidence of his / her previous employment and educational qualifications as well as a



security clearance certificate and the results of the medical check, the selected candidate is invited to sign the appropriate Mission contract.

In the case where the Head of Mission decides to sign the contract before the full completion of the security clearance process, the contract is terminated if the clearance cannot be issued within a reasonable period.

#### **4. DEPLOYMENT**

4.1 Contributing States and EU Institutions, in liaison with EEAS (CPCC) acting in conjunction with the Administration and Support Department of the Mission, are responsible for ensuring the satisfactory deployment of Mission staff members into theatre and extraction during the Mission draw-down and closure phases.

4.2 Deployment travel arrangements for incoming contracted staff members are the responsibility of Human Resources in coordination with the incoming staff member.

4.3 Decisions for appointments and/or redeployments within the Mission are the responsibility of the Head of Mission, except for cases referred to in 1.8 above.

4.4 The recommended tour of duty for seconded staff should be no less than 12 months duration with the possibility of extension, except for the members of IPU / FPU, for whom the minimum tour of duty would normally be 4 months. For certain specific functions, the tour of duty may be shorter for operational / logistical reasons.

4.5 Staff members are themselves responsible for finding suitable accommodation, located within 15 (fifteen) kilometres of their duty station. Exemptions may be granted by the Head of Mission if there are valid reasons and if security conditions so permit.

Seconded staff members are to deploy with personal protection and safety equipment, as specified in the deployment letter. Mission Security Management will determine

protection and safety requirements based on job profiles and, in line with the Policy of the European Union on the security of staff members deployed outside the EU in an operational capacity under Title V of the Treaty on European Union (doc. 9490/06) and the Mission Security Operating Standards.

Those staff members that are required to carry weapons will be able to do so. The transportation of weapons in the Mission area will be organised by the Contributing States in coordination with EULEX KOSOVO, in accordance with the relevant national procedures.

## **5. ADMISSION**

5.1 New arrivals are in-processed by the Administration and Support Department and issued with identification cards. Contributing States and EU Institutions ensure that seconded staff members fully meet the criteria of the Mission for minimum professional experience, medical and security clearance as well as driving and language abilities (see below).

### **5.2 Security clearance**

Staff members, as appropriate, must be in possession of a valid security clearance at the appropriate level depending on their duties, issued by their respective national security authorities.

Contracted staff members are responsible for requesting security clearance from their national authorities with the help of the Mission Security Office. To some particular posts a security clearance at "EU Secret" level is required and no equivalent is accepted.

### **5.3 Medical clearance**

All staff members must be medically certified confirming their full ability to perform their duties in the environment of a Common Security Defence Policy (CSDP) Crisis Management Operation,

prior to their deployment to the Mission Area. Failure to obtain such a certificate may determine a request for repatriation or termination of contract.

#### **5.4 Driving**

Staff members must be in possession of a valid national driving licence (category B or equivalent, or as required in the relevant job description). Seconded staff members failing to demonstrate an appropriate standard of driver proficiency are referred to their National Contingent Leader or National Authorities for remedial action. Contracted staffs failing to meet appropriate driving standards are considered to be in breach of their contract.

#### **5.5 English**

Staff members must possess full working fluency in written and spoken English and are expected to demonstrate good report writing skills. A failure by seconded staff to fulfil these standards is referred to the relevant National Contingent Leader for remedial action and/or repatriation. Contracted staff failing to meet the required language standards is considered to be in breach of their contract which may result in the termination of employment.

#### **5.6 Pre-Mission training**

The Contributing States are expected to provide pre-Mission training to their seconded staff members before deployment as per relevant Council documents. Also eHest training is recommended prior to the Mission.

#### **5.7 Non Family Mission**

EULEX KOSOVO is a non family Mission.

Recruitment of couples, siblings and blood relations could be allowed provided that they would act

independently in their area of work, i.e. do not work in a hierarchical relationship; do not work in the same unit; and do not have otherwise close professional relationship / significant impact in each other's area of work; and are not in the selection panel of each other.

## **6. PERMANENT REDEPLOYMENTS AND TEMPORARY REDEPLOYMENTS<sup>2</sup>**

6.1 EULEX KOSOVO staff members are expected to remain in their positions for the complete duration of their tour of duty/contract. Permanent redeployments and temporary redeployments can only be authorised by the Head of Mission and only in exceptional cases.

### **6.2 Permanent Redeployments**

- A permanent redeployment is a permanent transfer/assignment of a staff member from one position to another position, (e.g. unfilled following a CfC), of no higher rank, in the same area of expertise and/or from one location to another.
- For operational or exceptional reasons, Head of Mission can decide on permanent redeployments on the basis of a recommendation by the relevant Head of Component/Department/Office after clearance by Human Resources.
- The prior consent of the staff member as well as, for seconded staff, the NCL and, through EEAS (CPCC) the Contributing State, is required.
- All other re-deployments have to be advertised in a CfC.

### **6.3 Temporary Redeployments**

A temporary redeployment is an assignment to another position for a non-renewable period of up to four months or, in special cases, to guarantee the operational continuity (e.g. investigation, prosecution and trial), until the duty task has been completed.

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<sup>2</sup> Without prejudice to Annex M and Annex N.

For operational reasons, in duly justified cases, the Head of Mission may approve – after consultations with Human Resources and with the prior consent of staff member and, for seconded staff, the NCL and, through EEAS (CPCC), the Contributing State without undue delay – to temporarily redeploy a staff member.

It is intended to meet temporary operational requirements (e.g. vacant post following the unexpected departure of the previous incumbent).

At the end of the temporary redeployment the staff member returns to the position from which he/she was temporarily redeployed.

## **7. EXTENSION OF TOUR OF DUTY / RENEWAL OF CONTRACT**

The overall objective is to allow a handover period between outgoing and incoming senior staff (Head and Deputy Head of Mission, Chief and Deputy Chief of Staff and Heads of Components) in order to ensure continuity. For key mid-level staff handovers are recommended. Overlap periods will be agreed with the Commission.

Extension requests will be considered according to the following procedure:

- a) Human Resources will notify staff members whose end of Mission is foreseen well in advance of the period to be covered by the forthcoming Call for Contributions;
- b) The staff member in question is responsible for initiating a request for an extension of the secondment or renewal of contract in accordance with the timeline communicated by Human Resources. The request should include a justification for the extension and the benefits for the Mission yielded by the extension;
- c) The staff member forwards the request to his / her respective Line Manager (LM) who evaluates the staff member in accordance to his / her performance in form of a Performance Evaluation Report (PER). The LM submits in turn the request and the PER to his / her immediate supervisor for further evaluation. In case of a negative review of either the direct line manager or his / her immediate supervisor, a detailed justification should be provided;

- d) The complete file will be then forwarded to the Head of Human Resources;
- e) If the LM recommends the extension, the Head of Human Resources adds his / her recommendations and submits it to the Head of Mission for final decision. If the LM's supervisor does not recommend the extension, the staff member will be informed by Human Resources. S/he will also be informed about the possibility of launching an appeal. If the staff member launches an appeal, an advisory board comprising the Director of Administration and Support, the Head of Human Resources and the Head of the Legal Office will consult separately with the staff member and the relevant LMs. Subsequently, the advisory board shall submit its recommendation together with the complete file to the Head of Mission for final decision.
- f) If the Head of Mission approves the request for the extension, the extension request will be submitted by Human Resources through EEAS (CPCC) to the respective Contributing State or EU Institution. The respective authority of the Contributing State or EU institution will take the final decision regarding the extension of the secondment. The final decision will be brought to the attention of the Head of Mission through EEAS (CPCC).

If the Head of Mission does not confirm the extension of the secondment/renewal of contract, the Head of Human Resources informs the concerned staff member, the respective line managers and – for seconded staff – the National Contingent Leader or EU Institution and the post will be advertised in the next Call for Contributions.

7.1 Technical extensions for a short period of time will be requested under the following circumstances:

- a) In instances when changes of the flight arrangements occur, upon approval of the relevant Contributing State, where appropriate through the NCL, or EU Institution, a maximum of 15 days technical extension might be directly provided by the Mission to the staff member in question.
- b) In exceptional cases when the operational needs could not be met by the regular

CfC selection process and the staffing gap would result in a considerable operational impact, the Head of Mission can request through EEAS (CPCC) a technical extension of a secondment for a maximum of 3 months to allow for replacement through the subsequent Call for Contributions. The respective national authority of the Contributing State or EU Institution will take the final decision regarding this technical extension of secondment.

## **8. REPATRIATION AND TERMINATION OF CONTRACT / TOUR OF DUTY**

8.1 An international staff member's contract / tour of duty may be terminated before its appointed term:

- a) Upon his or her own request;
- b) Upon a request by the Contributing State or EU Institution;
- c) For disciplinary reasons according to the code of conduct;
- d) For failure to meet basic Mission requirements;
- e) Because of Mission restructuring and/or downsizing;
- f) On medical grounds, as certified by a competent physician and for seconded staff members, approved by the Contributing State or EU Institution. For contracted personnel, termination on medical grounds involves notice period of 1 month and is possible only after 45 days of sick leave;
- g) If facts come to light which, if known before, would have precluded the secondment or contracting (such as a proven instance of dishonesty during the recruitment process or the withholding of essential information);
- h) If a staff member's overall performance evaluation is unsatisfactory.
- i) For contracted staff, in any other circumstances foreseen in the contract.

A decision of the Head of Mission is necessary in each case.

8.2 In the cases 8.1 a), d), e) f) for contracted personnel h) and i) depending on the circumstances foreseen in the contract set out above a one-month notice period applies.

In all other cases, the termination can be immediate, subject to the decision of the Head of Mission, and for seconded staff members after appropriate consultations for seconded staff members with the relevant authorities of the concerned Contributing State or EU Institution.

8.3 The one-month notice period is considered to start from the day of the reception by Human Resources of the written note by the staff member expressing his intention to quit (in case 8.1 a), or from the day of the reception by the staff member of the Head of Mission decision (for all other cases).

8.4 In the case of seconded staff members, all costs associated with such repatriation and the arrival of a replacement to complete the tour of duty, if applicable, are at the expense of the Contributing State or EU Institution. In the case of international contracted staff members, the repatriation costs may be covered in accordance with the provisions of Commission Communication and the contract.

A staff member may be repatriated on compassionate grounds upon his / her request through the proper chain of command. Acknowledgment by the Line Manager and certified by the Head of Human Resources and approval by the Head of Mission are necessary. Concerning the seconded staff all costs incurred through compassionate repatriation are borne by the Contributing State or EU Institution.

8.5 The Head of Mission has the right to suspend a staff member from his or her duties for disciplinary reasons. Once suspended from duty, a staff member may not under any circumstances take part in any action or function on behalf of the Mission.

## **9. END OF MISSION PROCEDURES**

9.1 Staff members ending their contracts/tour of duty commence check-out procedures three



working days prior to their departure from their respective duty station. The checkout procedures are finalised by the Department of Administration and Support, to which outgoing staff members submit their completed checkout forms.

- 9.2 End of assignment report. Senior and mid-level supervisors are to submit a final end-of-assignment report to their respective chain of command and BPTO prior to their check out procedure. This report should outline the results achieved, problems encountered and recommendations. End-of-assignment report will follow template as designed by the BPTO and will be used by line managers and also by BPTO for identification of best practices and lessons learned. Reports from Heads of Components are forwarded to EEAS (CPCC) as appropriate.
- 9.3 Handover notes: All staff members are to submit also handover notes to their line managers to be shared with the new incumbent, in order to ensure smooth running of the operations and prevent loss of institutional memory.

## **10. ASSESSMENTS AND PERFORMANCE EVALUATION**

- 10.1 Staff members will be subject to regular Performance Evaluation Reports (PER) appraisals, including mid-year reviews. In addition, formal performance evaluation reports will be initiated before an extension of secondment/renewal of contract. PERs can be initiated at any given time on the initiative of the Line Manager.
- 10.2 The staff member will receive a copy of his or her PER.
- 10.3 Details are to be outlined in relevant Mission SOPs.

## **11. DUTY HOURS**

- 11.1 Normal working hours are from 9 a.m. to 6 p.m., from Monday to Thursday, and from 9 a.m. to 4 p.m. on Friday. This schedule includes an one hour lunch break. The Head of

Mission has the discretion to amend / adjust these working schedule if operational requirements so dictate. Line managers determine the most efficient and effective methods of staff members' deployment, including departments / staff required to work shifts.

- 11.2 For staff members that are required to work under special duty conditions (including staff working in shifts), it is for their respective line managers and the Head of Human Resources to determine the most efficient and effective work schedule which is subject to the final approval by the Head of Mission.
- 11.3 In the event of special or unusual Mission requirements or unforeseen shortages in staff members, staff members may be directed by their respective chain of command to work irregular or longer hours than normally scheduled.
- 11.4 The Mission will maintain a system of attendance records for all staff members.
- 11.5 All staff members are considered to be on call at all times, excluding only periods of Compensatory Time Off, Annual Leave, Sick Leave, Maternity and Paternity Leave, Special Leave, Unpaid Leave, Compassionate and Emergency Leave. Thus, they must be reachable by mobile phone at all times when in the Mission Area. No payment is made for overtime for international staff.
- 11.6 Security reasons govern the need for reliable means of communication. This requirement applies to all staff members not only to those in key positions and / or assigned for special tasks.

## **12. ANNUAL LEAVE (AL), COMPENSATORY TIME OFF (CTO) AND UNPAID LEAVE (UPL)**

- 12.1 The Leave and Compensatory Time Off regulations outlined below are intended to enable all staff members to set a realistic work pace that can be sustained over any

length of time during the Mission while, at the same time, meeting the recreational needs of staff members. Line managers shall oversee the preparation of a projected leave schedule to ensure that all staff are given the opportunity to utilise leave entitlements.

12.2 Human Resources is responsible for ensuring that leave records are meticulously documented and maintained and that staffing levels remain adequate at all times in order to ensure that operational requirements are met. The effective strength of units shall at no time be below 60% of the established strength unless otherwise approved by the Head of Mission. The granting of time off remains subordinate to operational requirements. Upon request, line managers are provided with a full record of ALs and CTOs earned by their team members. Line managers ascertain that staff members are absent according to their approved leave requests and are back on duty at the end of their leave period.

### 12.3 **Categories of leave and applicable policies**

a) **Annual Leave (AL)** – 2.5 days of AL are earned per completed month of service, counting from the date of arrival. AL may be taken separately or in conjunction with other types of leave.

b) **Compensatory Time Off (CTO)** – 1.5 days of CTO may be earned per completed month of service, counting from the arrival date. CTO is considered to cover:

- all overtime duty performed for operational reasons;
- all standby available duty (on-call duty);
- no payment is made for overtime for international staff.

CTO shall be granted in the interest of service. It should be taken at regular intervals and cannot be accumulated. CTO days should be used within three months from the end of the month during which CTO has accrued.

CTO may be taken separately or in conjunction with other types of leave.

- c) The combined AL and CTO earned during the last month of the contract is calculated as follows:
- If the incomplete month is more than 3 days, 0.5 AL day;
  - If the incomplete month is more than 7 days, 1 AL day;
  - If the incomplete month is more than 11 days, 1.5 AL days;
  - If the incomplete month is more than 15 days, 1.5 AL days and 0.5 CTO day;
  - If the incomplete month is more than 19 days, 2 AL days and 0.5 CTO day;
  - If the incomplete month is more than 23 days, 2 AL and 1 CTO days;
  - If the incomplete month is more than 27 days, 2.5 AL and 1 CTO days;
  - 2.5 AL and 1.5 CTO days are only earned on the completion of a full month of service.
- d) CTO and AL may be taken separately or in conjunction, with the limitation that no more than 23 (twenty three) calendar days, including weekend periods and Mission holidays, are spent out of work in one stretch. In exceptional circumstances and with the approval of the line manager, a staff member can take more than 23 calendar days off, subject to clearance by Human Resources.
- 12.4 Mission holidays (as approved by the Head of Mission) cannot be taken in advance. They can, however, be compensated by a subsequent day off (accumulated day, AD) should a staff member be required for operational reasons to work on the given public holiday.
- 12.5 When applying for time off, staff members use the established leave request forms and procedures. For operations planning purposes, leave requests should be submitted to the line manager between two months and 72 hours in advance.
- 12.6 A staff member who has a compelling and valid reason to do so may request a period of

unpaid leave (UPL). This request must be duly justified by a written memorandum and can only be granted upon approval by the line manager and the Head of Mission as well as by the Contributing State or EU Institutions for seconded staff members. In no case the UPL may exceed the duration of one calendar month per year. Mission health insurance continues during UPL, but no AL or CTO shall be earned during such a period. All Mission holidays and weekends falling within a UPL period are considered forfeited. No salary or per diem shall be paid during unpaid leave periods.

- 12.7 AL / CTO may be spent inside or outside the Mission area. There is no provision for travel days in connection with 'time off' inside or outside the Mission area. International staff members are required to provide their contact details at their destination while on AL / CTO.
- 12.8 AL and CTO can also be taken as half days. Weekends and Mission holidays are not counted as AL days. Exchange of shifts between staff members to allow extended 'time off' is not permitted.
- 12.9 No payment can be granted for unused AL / CTO at the end of the contract / tour of duty.
- 12.10 In the interest of staff health balance, the line managers are responsible for proper leave planning and staff members are encouraged not to accumulate more than 16 AL / CTO days.
- 12.11 In exceptional circumstances and subject to the approval of the Head of Human Resources, AL / CTO days can be taken in advance, to a limit of 7 days and provided that the remaining contract / tour of duty duration would allow to accruing the requested advance leave. In case of termination of the contract/tour of duty before these days are earned, they are discounted from the last payment.

As an exception to the above rule, the AL / CTO of the last two months in the Mission can be taken in advance from the moment that the staff member's official end of mission date is known. No AL / CTO is allowed in the three working days prior to the day of departure.

#### 12.12 **Brussels Support and Liaison Element**

Staff members of Brussels support element will follow the working hours of the hosting EU institution and will be entitled to the same leave policy as all staff members, except for public holidays. In this respect, they will follow the public holidays as established by EEAS (CPCC) on an annual basis, while ensuring an equal number of holidays as the Mission holidays as approved by the Head of Mission.

#### 12.13 **Regional Liaison Offices**

Staff members of the regional liaison offices shall be entitled to the same leave policy, except for public holidays. In this respect, they will follow the public holidays of the respective place of deployment, while ensuring an equal number of holidays as the Mission holidays as approved by the Head of Mission.

### 13. **COMPASSIONATE / EMERGENCY LEAVE**

13.1 Requests for compassionate / emergency leave should be appropriately certified and may only be granted under serious circumstances, such as:

- a) Attendance of the funeral of a close family member belonging to one of the below categories: parent, grand-parent, child, spouse or life partner, sibling or another relative who was the sole surviving family member of the staff member;
- b) Critical or life threatening illness or injury of one of the above mentioned family members; or
- c) The staff member's own wedding and civilian registered partnership.

- 13.2 Staff members are required to submit relevant documents along with a request for compassionate/emergency leave for approval by the Head of Human Resources.

The cases referred to above may entitle a staff member to 5 days of compassionate / emergency leave. Compassionate / emergency leave may also be taken in conjunction with earned CTO / AL. The rule of maximum 23 days of absence from duty at one time can be waived under the above circumstances. During compassionate / emergency leave seconded staff are paid allowances and contracted staff salary and allowances by the Mission.

#### 14. **SPECIAL LEAVE**

- 14.1 In addition to annual leave, Special Leave can be requested to cover absence from the Mission area up to a maximum of 10 days per 12 months tour of duty/contract, in exceptional circumstances, on serious professional or legal grounds that are beyond the choosing of the staff member involved.
- 14.2 Authorisation for a seconded staff member to take special leave must be given by the Contributing State or EU Institution accompanied by appropriate documentation which clearly justifies the grounds for requesting special leave. The Contributing State or EU Institution must notify EULEX KOSOVO through EEAS (CPCC) of the requirement for a staff member to take special leave (such as court hearings, promotion boards, compulsory training courses etc.).
- 14.3 Authorisation for special leave submitted by international contracted staff should provide supporting documentation which clearly justifies the grounds for requesting special leave.
- 14.4 Based on the documents provided, the Head of Mission will validate the authorisation for special leave. This validation is a technical verification to ensure that sufficient days

are left on the quota of days for special leave.

- 14.5 During special leave, no allowances are paid by the Mission for seconded and contracted staff nor salary for contracted staff.

## **15. SICK LEAVE**

- 15.1 Sick leave in the Mission area that is not certified by a physician may be taken for a period of three days at a time. The total of uncertified sick leave days cannot exceed six days during a twelve month period. There is no provision for uncertified sick leave during AL or any other type of leave.

Any other sick leave has to be certified by a qualified physician in an appropriate form, which must be submitted to Human Resources.

- 15.2 The line manager must be informed of any period of sick leave taken by a staff member as soon as possible, but no more than 24 hrs later. The line managers must notify Human Resources of all cases of sick leave via the appropriate forms. They must also ensure that Human Resources are immediately informed of the staff member's return to work.

- 15.3 It is the responsibility of each line manager to identify and report patterns of sickness which cause concern about the welfare or suitability of a staff member under his or her authority for Mission life, and / or which impede the operational effectiveness of the Mission. Line managers are advised to communicate with the individual in question to ascertain the reasons for persistent levels of sickness or absence.

- 15.4 For seconded staff, the Contributing State or EU Institution is informed of all periods of sickness exceeding 7 days, or patterns of sickness which cause concern or impede operational effectiveness of the Mission. Excessive sickness levels may result, if



necessary, in a recommendation to repatriate the staff member. This information is forwarded through EEAS (CPCC).

- 15.5 Human Resources and the Contributing State or EU Institution (if appropriate) must be informed of all instances of staff members' hospitalisation.
- 15.6 The absence of more than 20 consecutive days of a seconded staff member may lead to a request, through EEAS (CPCC), to the Contributing State or EU Institution to consider the repatriation from the Mission Area of the staff member. If, in case of a seconded staff member, the national legislation of the Seconding State provides longer sick entitlement than the above, the seconded staff member may be granted unpaid leave following the sick leave entitlement without prejudice to the possibility for the recommendation for repatriation.
- 15.7 No entitlement shall accrue in respect of a period of absence on grounds of sickness beyond the first 30 calendar days. The absence of more than 45 calendar days per year of an international contracted staff member may lead to a decision by the Head of Mission to terminate the employment contract of that staff member.

## **16. MATERNITY LEAVE (ML)**

- 16.1 In case of pregnancy, and in order to be granted maternity leave (ML), the staff member submits all relevant medical certificates, indicating the anticipated date of birth. ML may be given for the last 4 weeks prior to the anticipated date of birth unless differently recommended / prescribed by her doctor. Following the date of birth a staff member is entitled to twelve weeks of ML. If the prenatal period has been shorter than 4 weeks, the postnatal period shall be extended correspondingly.
- 16.2 AL and CTO continues to accrue during the ML period. Maternity leave may also be taken in conjunction with earned CTO/AL.

- 16.3 A pregnant staff member shall be entitled to take time off up to one working day per appointment, if necessary, without loss of pay, in order to attend prenatal examinations, if such examinations have to take place during working hours. Personal circumstances shall, as far as possible, be taken into account.
- 16.4 Subsequent to the completion of the Maternity Leave, the staff member in question is entitled to sufficient time off from duty for nursing her child during normal working hours.

If, in case of a seconded staff member, the national legislation of the Seconding State provides longer ML entitlement than the above, the seconded staff member may be granted unpaid leave following the ML entitlement for the remaining period of the maternity leave according to the national legislation. No daily allowances shall be paid during this additional maternity leave. If the period of unpaid leave would exceed the unpaid leave entitlement, the HoM may request repatriation of the seconded staff member.

The international contracted mission member may ask for unpaid leave for personal reasons (UPL) to follow the ML. However, if the period of unpaid leave would exceed the unpaid leave entitlement, the HoM may terminate the employment contract of the concerned staff member.

In any case the duration of maternity leave beyond the ML entitlement cannot have an effect of automatic extension of tour of duty /contract.

During ML seconded staff are paid per diems and hardship allowance and contracted staff salary, per diems and hardship allowances by the Mission. No risk allowance is paid during ML. In addition, no payments are to be made by the Mission during a possible unpaid leave period following the ML entitlements as referred above.

## **17. PATERNITY LEAVE**

- 17.1 The staff member is entitled to 5 (five) days of paternity leave (PL) after the delivery of a child by his / her spouse or partner.
- 17.2 Staff is required to submit relevant documents along with the request for PL, through the chain of command for approval by the Head of Human Resources.
- 17.3 If, in case of a seconded staff member, the national legislation of the Seconding State provides longer PL entitlement than the above, the seconded staff member may be granted unpaid leave following the PL entitlement for the remaining period of the paternity leave according to the national legislation. No daily allowances shall be paid during this additional paternity leave. If the period of unpaid leave would exceed the unpaid leave entitlement, the HoM may request repatriation of the seconded staff member.

The international contracted staff member may ask for unpaid leave for personal reasons (UPL) to follow the PL. Again, if the period of unpaid leave would exceed the unpaid leave entitlement, the HoM may terminate the employment contract of the concerned staff member.

In any case the duration of paternity leave beyond the PL entitlement cannot have an effect of automatic extension of tour of duty /contract.

AL and CTO continue to accrue during the PL period. PL may also be taken in conjunction with earned CTO/AL.

- 17.4 In case of a child adoption, both male and female staff members are entitled to PL, under the same conditions as set out above. PL must be taken within 3 months of the birth or adoption of the child.

During PL seconded staff are paid per diems and hardship allowance and contracted staff salary, per diems and hardship allowance by the Mission. No risk allowance is paid during PL. In addition, no payments are to be made by the Mission during possible unpaid leave period following the PL entitlement as referred above.

## **18. PERSONAL DATA PROTECTION**

18.1 In accordance with Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 and added to by Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000, the Mission shall protect the fundamental rights and freedoms of all staff members, in particular their right to privacy with respect to the processing of personal data and on the free movement of such data.

## **19. DUTIES AND RESPONSIBILITIES OF EULEX KOSOVO NATIONAL CONTINGENT LEADER(S)**

19.1 The National Contingent Leader (NCL) is appointed by his / her national government.

19.2 The NCL, in his / her capacity as Contingent Leader, is not considered to be within the chain of command of EULEX KOSOVO.

19.3 The NCL is considered the national representative of his / her contingent and, as such, may be requested by the Head of Mission to liaise with his / her national authorities, when appropriate, on issues pertaining to the betterment of the Mission.

19.4 The NCL is not entitled to use members from his / her contingent that are on duty to assist him/her in performing Contingent Leaders' duties. The NCL should be allowed to be assisted by non staff members, as appropriate, in order to fulfil his / her duties.

- 19.5 The NCL must ensure that during his / her absence from the Mission area, all responsibilities are performed by an Acting NCL.
- 19.6 The NCL shall not conduct investigations of disciplinary issues concerning members of their contingents, but, according to Annex N (Code of Conduct and Discipline (chapter 8.4.1), the National Contingent Leader should be informed in case of a reported or detected alleged breach of the EULEX KOSOVO Code of Conduct.
- 19.7 When a staff member terminates the mission without completing the checkout procedures, the respective NCL is responsible for ensuring that the checkout is completed on his / her behalf.
- 19.8 On arrival day, and not later, the NCL of the respective Contributing State shall present to the Rotation Officer in Human Resources a list of new comers that will be accommodated in Pristina by other staff members . The list (if any), will contain the address of where the new arrival will be housed and at least one telephone number as a means of contact. Once presented, this list will be final and will remain unchanged for the duration of training prior to deployment.
- 19.9 The NCL is responsible of organizing all activities related to his / her National Day.
- 19.10 The NCL is responsible for the following details regarding Medal Parades (MP), as well as Contingent Meetings (CM), where applicable:
- a) Confirming to Human Resources the list of Contingent Members who are entitled to receive certificates, EULEX KOSOVO Medals and ribbon, or numerals, at least two weeks in advance of the ceremony (MP).
  - b) Arranging a location for the event to be held (CM).
  - c) Making appropriate arrangements for, or acquire all necessary equipment to hold the event (Public address system, transportation to and from event for contingent members, etc.).

- d) Collecting certificates, EULEX KOSOVO Medals and ribbon, and numerals for presentation to entitled Contingent members from the Logistics EULEX KOSOVO Office at least one day prior to the ceremony (MP).

19.11 The NCL shall be granted one day per month to conduct official contingent business. The date chosen should not normally be immediately before or after a period of CTO or Annual Leave.

19.12 The NCL wishing to utilize such an official contingent business day<sup>3</sup> shall forward a written request to his / her immediate supervisor, minimum of one week prior to the date s/he wishes to use to conduct contingent business. Upon approval, this written request shall then be forwarded to Human Resources for official entry into the appropriate database.

19.13 Deployment of Mission staff members is facilitated through National Points of Contact (Nat. PoCs), who are appointed by national authorities before the beginning of deployment and should provide some logistical support of their incoming fellow nationals.

The national contact point is only a temporary function. After full operational capacity is reached, the national contact point will be replaced by the NCL, who will be the only remaining focal point. However, it is conceivable that for the period of termination of the Mission, in case of early departure of the NCL, a new Nat. PoCs might be appointed.

## **20. MEDAL PARADES AND OTHER EVENTS**

20.1 The HR has established the Common Security Defence Policy (CSDP) Service Medal as

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<sup>3</sup> This procedure is not applicable to the organization of National Contingent Meetings.

award for all civilian and military staff members who have participated in an EU-led crisis-management operation and served in the area of operation at least 30 days continuously.

However, a period of qualifying service shall not be required for:

- Posthumous award before qualifying has been completed;
- Service-incurred injuries and evacuation, before qualifying service has been completed.

20.2 Exceptions may be made by the HR, on the recommendation of the Civilian Operation Commander or the Head of Mission, for the award of the Medal to staff members actually deployed in the area of operation, who are regarded as particularly deserving cases and who would otherwise fall outside the criteria.

20.3 In accordance with the aforesaid, the Head of Mission shall be in charge of authorizing the Medal Parade, as a rule, twice a year.

20.4 All National Contingents of the Mission are allowed to organize National Contingent Meeting every fourth month. The official request has to be sent to the Head of Human Resources for his / her approval. National Contingent Meetings can be held only on Saturdays in the Mission area. All expenses shall be covered by the respective National Contingent.

20.5 The regular National Contingent Meetings are recognized as ‘Contingent Meeting’ days for the participating staff members. The travel and programme arrangements related to ‘Contingent Meeting’ days are not subject of any overtime request.

