



**COUNCIL OF
THE EUROPEAN UNION**

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RELEX 522**

"I/A" ITEM NOTE

From : General Secretariat of the Council
To : Permanent Representatives Committee / Council

No. prev. doc.: 7223/1/06 REV 1 PESC 222 FIN 86 RELEX 141

Subject : Guidelines on appointment, mandate and financing of EU Special Representatives
- revised guidelines: approval

1. The Foreign Relations Counsellors Working Party (RELEX), at its meetings on 24, 29, 31 of May, and 4, 7, 11, 14, 19, 25 of June, discussed proposals for a revision and update of the EUSR guidelines.

2. As a result of these discussions, the guidelines were revised and developed in particular on the following:
 - As a general rule, the tenure of office of an EUSR shall not exceed four years.
 - With a view to attaining the goal of gender balance Member States will be called upon to nominate more female candidates to the position of an EUSR.
 - The evaluation process will be strengthened with a view to assessing the renewal of an EUSR mandate in light of achieved policy objectives.
 - The coordinating role of the EUSR in the field with regard to a coherent engagement of all EU actors will be strengthened.

3. The guidelines were moreover updated to take account of recent relevant developments such as *i.a.* the Council field security policy.
4. The text of the revised guidelines as agreed by RELEX is set out at annex.
5. RELEX noted however that the question of who is responsible for dealing with claims arising in relation to staff seconded by Member States to the team of an EUSR could not be resolved and agreed to revert to this issue as a matter of urgency. Some delegations expressed the wish to examine this issue also as regards personnel seconded to EU crisis management operations.
6. With regard to the issue of remuneration of EUSRs, some delegations expressed interest in further exploring the idea of moving to a differentiated system based on the Commission's communication on CFSP Special Advisers.
7. Moreover, the idea of establishing a support cell (joint administrative team for EUSRs) with a view to strengthened administrative capacities received broad support. Council Secretariat and Commission were invited to continue working out the modalities, with a view to further discussion in RELEX in due course.
8. In these circumstances, and subject to confirmation by the Permanent Representatives Committee of the agreement reached at RELEX, Council is invited to approve the revised EUSR guidelines as set out at annex.

EU SPECIAL REPRESENTATIVES: GUIDELINES ON APPOINTMENT, MANDATE AND FINANCING

A. LEGAL FRAMEWORK AND SCOPE OF THESE GUIDELINES

Article 18(5) of the Treaty on European Union (TEU) provides for the appointment by the Council of Special Representatives. According to this provision, a special representative is entrusted "*with a mandate in relation to particular policy issues*" and thus acts, within the limits of the mandate, as a representative of the European Union (EU), notwithstanding the role of the Presidency as representative of the Union on all CFSP matters under Article 18(1) TEU.¹ These guidelines cover the selection, appointment, mandate and financing of EUSR, as well as legal and procedural aspects.

B. PREPARATORY PHASE

Where the Council agrees in principle on the advisability of appointing an EUSR with a mandate in relation to a particular policy issue, the SG/HR will call for candidates from the Member States. Member States will have sufficient time to propose candidates. Member States are encouraged to nominate more female candidates². All candidates will present themselves to a panel composed of representatives of the Presidency and the Council Secretariat, as well as to the SG/HR. On the basis of the interviews, the SG/HR will without delay make a recommendation to the Political and Security Committee (PSC) giving special attention to the need to attain the goal of gender balance. Following the political endorsement by PSC the Council will formally appoint the EUSR.

¹ It follows that any other person entrusted with a political mandate outside Article 18(5) TUE will be deemed to be a personal envoy or representative of the Presidency, the SG/HR or the Commission.

² Cf. Council conclusions on promoting gender equality and gender mainstreaming in crisis management (doc. 14884/1/06 REV 1).

The Presidency and the SG/HR will inform Member States on the progress in the selection process. To ensure transparency, Member States will circulate their candidate's CVs through the appropriate means.

C. APPOINTMENT AND MANDATE

1. The appointment and mandate of an EUSR are normally covered in the same legal instrument. Article 18 (5) TEU provides the legal basis both for the appointment and for the determination of the EUSR's mandate, as well as for the financial aspects.³ The practice of the Council has been to appoint and mandate EUSRs through joint actions pursuant to Article 14 TEU, in combination with Article 18(5) (and Article 23(2) TEU after its introduction by the Treaty of Nice). The format of a decision based on Article 18(5) in conjunction with Article 23(2) has been used in cases where an EUSR had to be replaced during the mandate (and if necessary for additional financing), as well as in the case of mandate extension without changes to the mandate.⁴
2. As a general rule, the tenure of office of an EUSR shall not exceed 4 years.⁵
3. The relevant regional working party will propose the core political mandate (policy objectives and tasks - Articles 2 and 3 of legal act respectively) or its revision to be endorsed by PSC.

³ Cf. Contribution of the Legal Service to the proceedings of the Foreign Relations Counsellors Working Party, doc. 10597/07 of 11 June 2007.

⁴ Cf. Council Decision 2006/670/CFSP of 5 October 2006, OJ L 275 of 6.10.2006, p. 65; Council Decision 2007/238/CFSP of 19 April 2007, OJ L 103 of 20.4.2007, p. 52; and Council Decision 2007/427/CFSP of 18 June 2007, OJ L 159 of 20.6.2007, p. 63.

⁵ In duly justified circumstances, in particular where an EUSR also assumes other functions, this period may be extended by the Council.

4. On this basis the Foreign Relations Counsellors working party (RELEX) will assess the legal, institutional and financial aspects of the mandate, with a view to ensuring the consistency and coherence of all EUSR mandates. RELEX will be responsible for finalising the draft legal act (*cf. model text of legal act at annex I*), which should cover the following elements:
- appointment of the person designated;
 - financial reference amount;
 - core political mandate of the EUSR (EU policy objectives and the EUSR's tasks) including where appropriate standard language to cover horizontal issues;
 - direction and guidance by the SG/HR and PSC;
 - duration of the mandate (in principle 12 months);
 - basis of operation;
 - criteria and modalities for reporting to the relevant EU institutions and bodies;
 - co-ordination and liaison in Brussels and in the field;
 - evaluation and review of the implementation of the mandate;
 - financial accountability to the Commission;
 - constitution and composition of the EUSR's team;
 - privileges and immunities for the EUSR and his/her staff;
 - security related aspects.
5. Relevant working groups should prepare, where appropriate, standard language to cover certain horizontal issues arising in the context of EUSR mandates (such as human rights, gender issues, children's rights, etc.), for consideration by PSC. Such standard language may have to be adapted as necessary for specific EUSR mandates.
6. When the Council appoints a new EUSR, the SG/HR will immediately inform the European Parliament and the Commission of that appointment in writing.⁶

⁶ Cf. exchange of letters between the Finnish Presidency and the Chairmen of the EP Foreign Affairs and Budget Committees (in doc. 15638/06 of 29.11.06, annexes to annex I).

D. OPERATIONAL PRINCIPLES

1. Direction and guidance by the SG/HR and PSC:

The EUSR will act under the authority and operational direction of the SG/HR. The PSC, as the primary point of contact within the Council, will provide political direction and strategic guidance to the EUSR within the framework of the mandate.

2. Basis of operations of EUSRs:

All EUSRs are either based in the country/region ("field-based EUSR") or in Brussels ("Brussels-based EUSR").

3. Reporting:

The EUSR will regularly provide oral and written reports to the SG/HR and to the PSC. The EUSR will also report as necessary to working groups. Regular written reports will be circulated through the coreu network. Upon recommendation of the SG/HR or the PSC, the EUSR may provide reports to the GAERC.

4. Coordination/liaison:

The EUSR will promote overall EU political coordination. He/she will help ensure that all EU instruments in the field are engaged coherently to attain the political objectives set out by the Council. The activities of the EUSR will be coordinated with those of the Presidency and the Commission, as well as those of other EUSRs active in the region as appropriate. The EUSR will provide regular briefings to Member States' missions and Commission's delegations. In the field, close liaison will be maintained with Presidency, Commission and Member States' Heads of Mission who will make best efforts to assist the EUSR in the implementation of the mandate.

Where the EU conducts a crisis management operation in the same country or region the EUSR will provide local political guidance to the Head of Mission or Force Commander. The EUSR will also liaise with other international and regional actors in the field.

5. Evaluation/Review:

The implementation of the mandate and its consistency with other contributions from the European Union to the region will be kept under regular review on the basis of guidance agreed by the Council⁷. During his/her standard term beginning on 1 March, the EUSR will present to the SG/HR, the Council and the Commission a progress report before the end of June, and a comprehensive mandate implementation report including financial aspects by mid-November. These reports will form a basis for evaluation of the mandate in the relevant working groups and the PSC, while RELEX will consider the legal, financial and institutional aspects of the mandate. Any request for substantial increases in budgetary provisions should be properly justified for due consideration by RELEX.

On the basis of the assessments carried out, as well as in the light of a recommendation by the SG/HR, the PSC will determine in particular whether the policy objectives as defined in the mandate have been met and whether the mandate should be extended, amended or terminated.

Proposals for the extension, amendment or termination of existing mandates may be made at any time during the year by a working group, the PSC or the SG/HR.

6. Contract with the Commission

The management of the expenditure is subject to a contract between the EUSR and the Commission. Under this contract, the EUSR will have the status of a CFSP special adviser.⁸

⁷ Cf. annex II .

⁸ Cf. Commission communication on CFSP special advisers (C(2004)2984 of 06.08.04) and Article 5 of the "Conditions of Employment of Other Servants of the European Communities".

7. Constitution and composition of team

Within the limits of his/her mandate and the corresponding financial means made available, the EUSR is responsible for constituting his/her team in consultation with the Presidency, assisted by the SG/HR, and in full association with the Commission. The team should include the expertise on specific policy issues as required by the mandate. RELEX will be informed for due consideration where requested staff changes may have significant financial implications for the subsequent mandate period. The Council Secretariat will regularly update Member States on the composition of the teams.

Member States and institutions of the European Union may propose the secondment of staff to work with the EUSR. International contracted staff must have the nationality of an EU member state.

All A-type posts which are not covered by secondment will be advertised as appropriate by the General Secretariat of the Council and also notified to Member States and EU institutions in order to recruit the best-qualified applicants.

All seconded personnel shall remain under the authority⁹ of the sending Member State or EU institution and shall carry out their duties and act in the interest of the mandate of the EUSR.

⁹ "Remain under the authority" is to be understood as remaining **administratively** (not operationally) under the authority of the sending MS or EU institution, similarly to what applies to national experts on secondment to the GSC who "shall remain in the service of their employer throughout the period of secondment" (*cf.* Council Decision 2003/479/EC of 16.06.2003, Article 1(2)). **Operationally** (in terms of tasks and duties), secondees are subordinated to the EUSR.

8. Security of EU classified information

The EUSR and the members of his/her team shall respect security principles and minimum standards established by Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations¹⁰, in particular when managing EU classified information.

All EUSRs and their seconded and international staff will need to have valid security clearance to at least the level of CONFIDENTIEL UE.

9. Access to information and logistical support

Member States, the Commission and the Council Secretariat will ensure that EUSRs are given access to any relevant information.

EUSRs and Commission delegations will work closely together. The Commission will provide all possible support to EUSRs in the field¹¹. Field-based EUSRs should where feasible be accommodated in Commission Delegations and adequate provision for this purpose should be included in the budget of the EUSR's mandate.

The Presidency, the Member States and the Commission will provide appropriate and reasonable support to the EUSRs from their own resources.

10. Security

The Policy of the European Union on the security of personnel deployed outside the EU in an operational capacity under Title V of the Treaty on European Union ("field security policy")¹² applies to the EUSRs and their teams.

¹⁰ Cf. Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations (OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2005/952/EC, OJ L 346, 29.12.2005, p. 18).

¹¹ As appropriate, the Commission and the GSC will also provide logistical support to the EUSR in fulfilling his/her duties in Brussels.

¹² Doc. 9490/06

The EUSR will take all reasonably practicable measures, in conformity with his/her mandate and the security situation in his/her geographical area of responsibility, for the security of personnel under his/her direct authority, by applying the relevant measures referred to in the field security policy document, such as in particular:

- establishing a mission-specific security plan;
- ensuring coverage of personnel deployed outside the EU by high risk insurance;
- ensuring appropriate security training for team members;
- putting into place adequate protection measures including, as appropriate, relocation and evacuation procedures.

The GSC Security Office can assist the EUSR in meeting his/her field security responsibilities by providing him/her with advice and by contributing to the definition of the mission security plan, budgetary requirements, profiles for security staff, etc. A security handbook will moreover serve as manual for use by the EUSR.

The EUSR will implement the security measures and recommendations assisted by an EUSR Security Officer, as appropriate.

E. FINANCIAL PRINCIPLES

1. All expenditure will be charged to the EC budget (CFSP chapter, 19 03) unless the Council decides otherwise, in accordance with Article 28.3 TEU.

In the framework of his contract with the Commission, the EUSR will be accountable to the Commission for all expenditure charged to the CFSP budget.

2. The financial commitments set out in the Council legal act will be detailed in a financial statement drawn up on the basis of a draft prepared by the Commission which will be assessed by the RELEX with a view to approval by COREPER/Council, together with the legal act.

3. The EUSR will be appointed at the level of AD 16/1. The remuneration of staff not seconded will be determined in accordance with the relevant provisions of the Commission Communication on CFSP Special Advisers.

The salary of personnel seconded to the EUSR by a Member State or an EU institution will be covered by the Member State or the EU institution concerned respectively.

F. EXTENSION, AMENDMENT OR TERMINATION OF MANDATES

To ensure evaluation and prioritisation¹³ when considering the extension, amendment or termination of EUSR mandates, the following procedure will be followed¹⁴:

End June

Progress report by the EUSR to SG/HR, Council and Commission.

The report is passed to PSC, RELEX and the relevant regional working group.

If appropriate:

- Relevant regional working groups, in close consultation with RELEX in particular as regards the budgetary implications, make recommendations to PSC on amending the existing mandate.

¹³ See doc. 7438/03 on procedures for improving the effectiveness of the CFSP budget. These procedures are aimed at enhancing the PSC's role in providing political guidance on geographic or thematic priority-setting for expenditure under the CFSP budget.

¹⁴ In cases where the mandate in question is of less than 12-month duration, the same steps will in principle be followed, though the timetable may vary.

November - December:

Mandate implementation report by the EUSR to SG/HR, Council and Commission¹⁵.

Relevant regional working groups, in close consultation with RELEX in particular as regards the budgetary implications, make recommendations to PSC¹⁶ on extending, amending or terminating existing mandates on the basis of the mandate implementation reports to be submitted by the EUSR by mid-November.

The SG/HR makes his own recommendations on extending, amending or terminating mandates.

PSC agrees to the extension, amendment or termination of mandates for the following period on the basis of the recommendations by the working parties involved and by the SG/HR.

January

Commission prepares financial statement.

On the basis of information from EUSRs and of recommendations from the relevant working groups, the SG/HR and the PSC, RELEX finalises legal act and agrees financial statement at the same time.

before mid-February:

Council adopts legal acts.

¹⁵ in accordance with guidance set out at annex II.

¹⁶ in accordance with guidance set out at annex II.

COUNCIL [JOINT ACTION] [DECISION] 200*/ /CFSP

of...

appointing the European Union Special Representative /extending (and amending) the mandate of
the European Union Special Representative/

for.....

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union and, in particular, [Articles 14 18(5) and 23(2)]
[Article 18(5) in conjunction with Article 23(2)] thereof,

Whereas

[....]

(..) The EUSR is to implement his mandate in the context of a situation which may deteriorate
and could harm the objectives of the Common Foreign and Security Policy, as set out in
Article 11 of the Treaty¹⁷,

HAS [ADOPTED THIS JOINT ACTION] [DECIDED AS FOLLOWS]:

Article 1

Appointment

/European Union Special Representative/

(If appointment) Mr/Msis hereby appointed as European Union Special Representative (EUSR)
for for the period fromto

/(if extension) The mandate of Mr/Ms ... as the European Union Special Representative (EUSR) for ...
... is hereby extended until .../

¹⁷ Crisis notion to be included if appropriate.

Article 2
Policy objectives

The mandate of the EUSR shall be based on the policy objectives of the EU in .../regarding the ...

These objectives include:

[...]

Article 3
Mandate

In order to achieve the policy objectives, the mandate of the EUSR shall be to:

[...]

Article 4
Implementation of the mandate

1. The EUSR shall be responsible for the implementation of the mandate acting under the authority and operational direction of the Secretary General/High Representative (SG/HR).
2. The Political and Security Committee (PSC) shall maintain a privileged link with the EUSR and shall be the primary point of contact with the Council. The PSC shall provide the EUSR with strategic guidance and political direction within the framework of the mandate.

Article 5
Financing

1. The financial reference amount intended to cover the expenditure related to the mandate of the EUSR in the period from ... to ... shall be EUR.....
2. The expenditure financed by the amount stipulated in paragraph 1 shall be eligible as from The expenditure shall be managed in accordance with the procedures and rules applicable to the general budget of the European Communities with the exception that any pre-financing shall not remain the property of the Community.

3. The management of the expenditure shall be subject to a contract between the EUSR and the Commission. The EUSR shall be accountable to the Commission for all expenditure.

Article 6

Constitution and composition of the team

1. Within the limits of his/her mandate and the corresponding financial means made available, the EUSR shall be responsible for constituting his/her team in consultation with the Presidency, assisted by the SG/HR, and in full association with the Commission. The team shall include the expertise on specific policy issues as required by the mandate. The EUSR shall inform the SG/HR, the Presidency and the Commission of the final composition of his/her team.
2. Member States and institutions of the European Union may propose the secondment of staff to work with the EUSR. The salary of personnel who are seconded by a Member State or an institution of the European Union to the EUSR shall be covered by the Member State or the institution of the European Union concerned respectively. International contracted staff shall have the nationality of an EU Member State.
3. All seconded personnel shall remain under the administrative authority of the sending Member State or EU institution and shall carry out their duties and act in the interest of the mandate of the EUSR.

Article 7

Privileges and immunities of the EUSR and his/her staff

The privileges, immunities and further guarantees necessary for the completion and smooth functioning of the mission of the EUSR and the members of his/her staff shall be agreed with the host party/parties as appropriate. Member States and the Commission shall grant all necessary support to such effect.

Article 8

Security of EU classified information

The EUSR and the members of his team shall respect security principles and minimum standards established by Council Decision 2001/264/EC of 19 March 2001 adopting the Council's security regulations¹⁸, in particular when managing EU classified information.

Article 9

Access to information and logistical support

1. Member States, the Commission and the Council Secretariat shall ensure that the EUSR is given access to any relevant information.
2. The Presidency, the Commission and/or Member States, as appropriate, shall provide logistical support in the region.

Article 10

Security

The EUSR shall, in accordance with the policy of the European Union on the security of personnel deployed outside the European Union in an operational capacity under Title V of the Treaty on European Union, take all reasonably practicable measures, in conformity with his mandate and the security situation in his geographical area of responsibility, for the security of all personnel under his direct authority, notably by:

- (a) establishing a mission-specific security plan based on guidance from the General Secretariat of the Council, including mission-specific physical, organisational and procedural security measures, governing management of the secure movement of personnel to, and within, the mission area, the management of security incidents and a mission contingency and evacuation plan;

¹⁸ OJ L 101, 11.4.2001, p. 1. Decision as last amended by Decision 2005/952/EC (OJ L 346, 29.12.2005, p. 18).

- (b) ensuring that all personnel deployed outside the European Union are covered by high risk insurance as required by the conditions in the mission area;
- (c) ensuring that all members of his team to be deployed outside the European Union, including locally contracted personnel, have received appropriate security training before or upon arriving in the mission area, based on the risk ratings assigned to the mission area by the General Secretariat of the Council;
- (d) ensuring that all agreed recommendations made following regular security assessments are implemented and providing the SG/HR, the Council and the Commission with written reports on their implementation and on other security issues within the framework of the mid-term and mandate implementation reports.

Article 11

Reporting

The EUSR shall regularly provide oral and written reports to the SG/HR and to the PSC. The EUSR shall also report as necessary to working groups. Regular written reports shall be circulated through the coreu network. Upon recommendation of the SG/HR or the PSC, the EUSR may provide reports to the GAERC.

Article 12

Coordination

The EUSR shall promote overall EU political coordination. He/she shall help ensure that all EU instruments in the field are engaged coherently to attain the EU's policy objectives. The activities of the EUSR shall be coordinated with those of the Presidency and the Commission, as well as those of other EUSRs active in the region as appropriate. The EUSR shall provide regular briefings to Member States' missions and Commission's delegations.

In the field, close liaison shall be maintained with Presidency, Commission and Member States' Heads of Mission who shall make best efforts to assist the EUSR in the implementation of the mandate. [*In case of an EU crisis management operation: The EUSR shall provide local political guidance to the Head of Mission / Force Commander of [name of the EU crisis management operation].*] The EUSR shall also liaise with other international and regional actors in the field.

Article 13

Review

The implementation of this [Joint Action] [Decision] and its consistency with other contributions from the European Union to the region shall be kept under regular review. The EUSR shall present to the SG/HR, the Council and the Commission a progress report before the end of June ... and a comprehensive mandate implementation report by mid-November ... These reports shall form a basis for evaluation of the mandate in the relevant working groups and by the PSC. In the context of overall priorities for deployment, the SG/HR shall make recommendations to the PSC concerning the Council's decision on renewal, amendment or termination of the mandate.

Article 14

[Entry into force] [Taking of effect]

This [Joint Action shall enter into force] [Decision shall take effect] on the day of its adoption.

Article 15

Publication

This [Joint Action] [Decision] shall be published in the *Official Journal of the European Union*.

Done at

For the Council
The President

EUSR MANDATE REVIEW: GUIDANCE ON REPORTING FOR EUSRs AND RELEVANT WORKING GROUPS

I. Guidance for EUSRs

Mid-term and mandate implementation reports by the EUSRs should address the following:

a) Actions undertaken

- tasks planned and carried out in pursuit of the objectives set in the mandate
- how resources were used (budgeting, measures taken to improve efficiency)
- steps taken to ensure coordination with other EU actors (field and in Brussels) and liaison with other international actors in the field

b) Evaluation

- degree to which objectives have been achieved (benchmarks for evaluation, assessment of overall effectiveness)
- obstacles encountered / reasons for non-attainment of objectives
- possible better use of resources (budgeting...)

c) Challenges ahead

II. Guidance for relevant working groups

The reports by the relevant working groups should address in a concise way the following:

a) Evaluation of the EUSR's activities

- input to policy formulation
- timeliness and adequacy of EUSR reporting

- assessment on co-ordination of EUSR activities with those of other EU actors
- efficiency in use of resources (budget, personnel)
- degree to which objectives set for the EUSR have been achieved
- assessment of EUSR reasons for non-attainment of objectives

b) Overall evaluation of mandate

- adequacy of objectives set for the EUSR (specific, measurable, realistic)
- assessment of overall impact of the instrument in contributing to EU objectives for the region

c) Recommendations on future activities

- anticipated regional developments /challenges ahead
- recommendation on future of mandate (termination, renewal, amendment)
- if an extension of the mandate is recommended, the Working Group report should :
 - consider ways in which the mandate could be made more effective (e.g., addressing obstacles identified by EUSR, improved coordination, level of representation, improved definition of objectives and tasks etc)
 - examine the options for renewal (including use of lighter models)
 - indicate the timescale for phasing out of the mandate
- if a termination of the mandate is recommended, the Working Group report should :
 - assess the consequences of termination of the mandate
 - consider alternative actions