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NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	Code of Conduct and Disciplinary Procedure for EU Civilian CSDP Missions

Delegations will find attached the Code of Conduct and Disciplinary Procedure for EU Civilian CSDP Missions.

Code of Conduct and Disciplinary Procedure for EU Civilian CSDP Missions

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CHAPTER I

General Provisions Section 1: Scope of Application

Article 1

1. This Code applies to all members of civilian CSDP missions of the European Union, inter alia:
 - (a) The Head of Mission;
 - (b) Members seconded by Member States or contributing Third States;
 - (c) Members seconded by European Union institutions or the European External Action Service (EEAS);
 - (d) International contracted members;
 - (e) Locally contracted members;
2. This Code applies to former members of civilian CSDP missions with regard to possible breaches that may come to light no later than three years after the end of their tour of duty/contract.
3. For seconded mission members, the Seconding Authority retains the ultimate responsibility for the imposition of a disciplinary measure, as outlined in Chapters VI and VII.

4. This Code shall be without prejudice to constitutionally protected rights in the Member States and the rules to which a mission member may be subject to under national, EU or international law, and regulations of the Seconding Authority.
5. When the Code mentions Member State(s), the provision shall be applicable to also contributing Third States.

Article 2

1. The disciplinary procedures and measures taken under this Code do not preclude the imposition of sanctions or other measures under national, EU or international law.

2. In the event that the conduct of a mission member may also constitute a criminal act, the Conduct and Integrity Entity referred to in Article 5bis will inform the competent authorities as defined in paragraph 3 and the National Contingent Leader, if they are not involved in the case, without undue delay.
3. For the purpose of paragraph 2-the competent authorities shall be:
- (a) The authorities of the Seconding State, in case of a mission member seconded by a Member State or a contributing Third State;
 - (b) The authorities of the European Union institution or the European External Action Service in case of a mission member seconded by them, in cooperation with the Responsible Authorities of the Member States concerned;
 - (c) The authorities of the state of nationality in case of a Head of Mission or an international contracted mission member;
 - (d) The authorities of the Host State in case of a locally contracted mission member; and
 - (e) The Seconding Authorities and the authorities of the state of nationality, in case of any other mission member.

Article 3

1. The Civilian Operation Commander may issue instructions to implement this Code.
2. The Head of Mission may promulgate additional, mission specific instructions to complement this Code through Standard Operating Procedures. These shall be of administrative nature only and fully in line with the provisions of this Code as well as with instructions issued by the Civilian Operation Commander for the implementation of this Code.
3. In case of any inconsistency, this Code prevails over an instruction from the Civilian Operation Commander and the latter over a Standard Operating Procedure from the Head of Mission.

Section 2: General principles of behaviour and discipline

Article 4

1. All mission members shall maintain the highest personal standards of ethical behaviour, impartiality and integrity and shall act in an irreproachable manner, during and outside of working hours.

2. Without prejudice to the privileges and immunities that mission members may enjoy, they are required to respect the applicable laws and regulations of the Host State, international law and instructions as referred in Article 3, as well as refrain from any action or behaviour which might adversely affect their position and function as a person acting for the European Union.
3. In this respect and with an emphasis, inter alia, on the prevention of serious misconduct, such as sexual harassment, sexual exploitation or abuse, fraud, corruption and misappropriation of mission assets, all mission members shall have regard to and act in conformity with the applicable versions of:
 - (a) The Upgraded Generic Standards of Behaviour for CSDP Missions and Operations (7 March 2018, 6877/18); The European Commission Guidelines on Ethics and Integrity for Civilian CSDP Missions' and EUSR' Staff Members (28 March 2018, 17188/12).
 - (b) The European Code of Good Administrative Behaviour (6 September 2001);
 - (c) The OPLAN and Standard Operating Procedures issued by the mission for which they are working and Instructions issued by the Civilian Operation Commander.

4. The Head of Mission shall assure that all mission members are informed about and understand the documents mentioned in (3), and that they receive specific training on the general principles of appropriate behavior, good conduct and disciplinary procedures, and their implications.

Article 5

1. If mission members do not act in accordance with the obligations outlined in Article 4 (breaches of this Code), whether intentionally or through negligence, they may be subject to actions, procedures and disciplinary measures as provided for in Article 11 and following of this Code.

Section 3: General principles for the implementation of the Code of Conduct

Article 5bis

1. All persons responsible for the implementation of this Code of Conduct shall act with objectivity, independence, impartiality and confidentiality at every step of the procedure.

Conflict of interest may occur if any of these principles are potentially compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest. Conflicts of interest shall immediately be declared to the Responsible Authority by the person concerned. Failing to do so is considered a breach of this Code of Conduct.

- a. A dedicated Conduct and Integrity Entity has been established in the EEAS for civilian crisis management missions. The Conduct and Integrity Entity contributes to the full and consistent application of the procedures laid down in this Code and thereby contributes to the exercise of the EU's duty of care within the civilian CSDP Missions.
- b. The Conduct and Integrity Entity operates in accordance with the principles referred to in paragraph 1, without prejudice to the chain of command of civilian CSDP missions.
- c. A pool of experts "roster" is administered by the Conduct and Integrity Entity to support the implementation of this Code of Conduct in accordance with the procedure set in Annex I.

- d. In accordance with its objectives and tasks as defined by the EEAS, the Conduct and Integrity Entity shall:
- i. Act as a point of contact for all mission members to report a possible breach of the general principles of behaviour and discipline as outlined in Article 4;
 - ii. Advise Responsible Authorities and the victim, if any, of an alleged breach on any steps of the application of the procedures of this Code of Conduct in accordance with the principles referred to in paragraph 1,
 - iii. Conduct preliminary assessment of facts and disciplinary investigations as outlined in Chapter IV and V;
 - iv. Select and maintain a roster of experts for the selection of independent and impartial assessors, (Article 12) and investigators (Article 16), as well as members for a Disciplinary Board (Article 29) and for a Disciplinary Board of Appeal (Article 39) where needed;
 - v. Support the development of strategies, instructions, implementing guidelines and procedural documents to be decided by the Civilian Operation Commander, as well as contribute to relevant training;

- vi. Monitor and scrutinise the application of this Code by the Responsible Authorities where needed;
 - vii. Aggregate statistics on conduct and integrity matters and report on the implementation of this Code to the Member States on an annual basis.
- e. The EEAS may entrust the Conduct and Integrity Entity with other tasks in relation to the implementation of this Code of Conduct.
- f. In cases where the Conduct and Integrity Entity identifies procedural irregularities in the implementation of the Code of Conduct, or the Entity has a compelling reason to disagree with the Responsible Authority, it will refer the case to the Civilian Operation Commander. The Conduct and Integrity Entity will duly justify such reference. Based on this referral, the Civilian Operation Commander will instruct the Responsible Authority through the chain of command on the follow up of the case or take over the case in accordance with Article 10 (3).
- g. In cases where the Conduct and Integrity Entity identifies procedural irregularities in the implementation of the Code of Conduct by the Civilian Operation Commander or there is a compelling reason to disagree with the Civilian Operation Commander, the Conduct and Integrity Entity will refer the matter to the High Representative. The Conduct and Integrity Entity will duly justify such reference. Based on this referral, the High Representative will decide on the appropriate follow up on the case.

CHAPTER II

Reporting of possible breaches

Article 6

1. A possible breach of this Code by a Mission Member may be reported to the line manager, the Deputy Head of Mission or the Conduct and Integrity Entity within reasonable time. If the possible breach is reported orally, the recipient shall put it in writing and provide the opportunity to have it reviewed by the person reporting the alleged breach. Failing to do so would be considered a breach of this Code. If the possible breach is reported to the line manager, they shall forward it to the Deputy Head of Mission.
2. If the possible breach is with respect to the Deputy Head of Mission, the Chief of Staff or the Head of Operation, the report shall be directly addressed to the Deputy Civilian Operation Commander or the Conduct and Integrity Entity.
3. If the possible breach is with respect to the Head of Mission, the report shall be directly addressed to the Civilian Operation Commander, or the Conduct and Integrity Entity.

4. In the event that a mission member receives information from a person or body external to the mission concerning a possible breach, this information shall be forwarded in accordance with paragraph 1, 2 or 3, as required.
5. The recipient of any report concerning a possible breach that has not been directed to the Conduct and Integrity Entity, shall forward this information to this Entity without delay.
6. The Head of Mission shall make sure that the authorities of the Host State are made aware of this Code and its reporting procedures.

Article 7

1. Mission members who are aware of, or have experienced, a possible breach shall have access to confidential counseling.
2. Additional instructions on confidential counselling, as contained in Instructions on the confidential counsellors shall be issued by the Civilian Operation Commander.

3. Mission members who have reported a possible breach shall not suffer any adverse effects as a result of or as a reaction to this reporting, provided they have acted reasonably and in good faith. All reports of a possible breach of this Code of Conduct should be done in good faith. Failing to do so would be considered a breach of this Code.
4. Additional rules on whistleblowing and the protection of mission members who reported a possible breach of this Code, as contained in Instructions issued by the Civilian Operation Commander on whistleblowing, apply.

Article 8

The Deputy Head of Mission and the Deputy Civilian Operation Commander shall inform the Civilian Operation Commander, the Head of Mission as well as the Conduct and Integrity Entity:

- a) On a quarterly basis about reported possible breaches and which possible breaches have led to investigations, as outlined in Chapter IV and V; and
- b) Immediately if a possible breach may have a substantial impact on the mission. Article 18 (4) on the notifications of the Seconding Authority applies accordingly.

CHAPTER III
Responsible Authorities and possible
actions Section 1: Responsible Authorities

Article 9

In the context of Chapters III to VII of this Code, the Responsible-Authority for following up on a possible breach shall be:

- a) The Deputy Head of Mission for a possible breach by a mission member; except those listed in
- b) The Deputy Civilian Operation Commander for a possible breach by the Deputy Head of Mission, the Chief of Staff and the Head of Operation
- c) The Deputy Civilian Operation Commander in case of Article 10 point 1
- d) The Civilian Operation Commander in exercising command and control of the mission under the political control and strategic direction of the Political and Security Committee (PSC) and overall authority of the High Representative (HR), for a possible breach by the Head of Mission.

Article 10

1. If the Head of Mission, the Deputy Head of Mission or the Seconding Authority of the person under disciplinary investigation so requests, the Civilian Operation Commander may decide that the Deputy Civilian Operation Commander irrevocably takes over the authority in a specific case.

2. If the request is issued by the Deputy Head of Mission or by the Seconding Authority of the person under disciplinary investigation, the Civilian Operation Commander shall consult the Head of Mission before taking a decision, unless the Civilian Operation Commander deems it inappropriate.
3. In case of an irregularity as foreseen in Article 5bis (7) or under exceptional circumstances and after having consulted with the Head of Mission unless they deemed inappropriate, the Civilian Operation Commander may decide of their own motion that the Deputy Civilian Operation Commander irrevocably takes over the authority in a specific case.
4. For the purpose of this Article, exceptional circumstances arise when a possible breach may have a substantial adverse effect on the functioning or the reputation of the mission and where it would not be appropriate for the Responsible Authority to deal with the case.
5. The Civilian Operation Commander shall inform Member States whose personnel are involved in the case of any decision taken under paragraph 3 of this Article without undue delay.

Section 2: Possible actions of the Responsible Authority

Article 11

1. On the basis of a report concerning a possible breach, the Responsible Authority shall, within ten working days, decide, in accordance with best practice, one of the following:
 - (a) To close the file without further action;
 - (b) To deal with it as a management issue, without recourse to a formal disciplinary procedure, and to subject it to mediation procedures, if appropriate;
 - (c) To commence a preliminary assessment of facts (Chapter IV);
 - (d) To commence a disciplinary investigation (Chapter V, Section 1), including taking temporary measures if required (Chapter V, Section 3).
2. In case the decision is taken by the Deputy Head of Mission, the Head of Mission and the Conduct and Integrity Entity shall be informed thereof.
3. In case the decision is taken by the Deputy Civilian Operation Commander, the Civilian Operation Commander and the Conduct and Integrity Entity shall be informed thereof.

4. In case the decision concerning the Head of Mission as referred in paragraph 1 (d) is taken by the Civilian Operation Commander, the High Representative and the Conduct and Integrity Entity shall be informed thereof.
5. If a case is closed in accordance with Article 11. 1 (a) or (b), the mission member having made a report pursuant to this Code, and the victim, if any, of the alleged breach, if it is different, shall be informed about the decision. In addition, before such a decision is taken, the victim, if any, of the alleged breach must be also be heard.

CHAPTER IV

Preliminary Assessment of facts

Article 12

1. In the event that the Responsible Authority requires more information to decide on appropriate follow up on a possible breach, it shall, within ten working days, appoint and instruct one or more assessors to conduct a preliminary assessment of facts. In principle, two assessors will be appointed. The Responsible Authority shall strive for gender and geographical balance within the assessors' team taking into account the nature of the possible breach.

2. Assessor(s) shall be impartial and in principle, members of the mission or selected from the roster referred to in Article 5bis (4). The assessors shall not be of the same nationality as the person reporting the alleged breach or the person allegedly committing the breach.
3. The Civilian Operation Commander may entrust the Conduct and Integrity Entity to conduct a preliminary assessment of facts request of the Head of Mission, of the Deputy Head of Mission, or of the Seconding Authority whose personnel is involved in the case. In addition to the Entity, the Civilian Operation Commander may appoint other expert(s) from the roster referred to in Article 5bis (4) to conduct a preliminary assessment of facts.
4. Upon his initiative, the Civilian Operation Commander may decide to entrust the Conduct and Integrity Entity to conduct a preliminary assessment of facts. In addition to the Conduct and Integrity Entity, the Civilian Operation Commander may appoint other expert(s) from the roster referred to in Article 5bis (4) to investigate the case.
5. In cases where the Civilian Operation Commander or the Deputy Civilian Operation Commander is the Responsible Authority, preliminary assessment of facts will be conducted by the Conduct and Integrity Entity.

Article 13

1. The preliminary assessment of facts is of a limited scope to establish the facts in order to determine whether the possible breach merits a disciplinary investigation.
2. The preliminary assessment of facts shall be carried out objectively, independently, impartially and in due time whilst maintaining the highest standards of integrity, confidentiality and due process.
3. All mission members who can contribute to the preliminary assessment of facts shall cooperate with the assessors and shall process requests for information and documentation expeditiously, accurately and confidentially.

Article 14

The assessors shall present the results of the preliminary assessment of facts in a preliminary assessment of facts report to the Responsible Authority. This preliminary assessment of facts report shall contain the obtained facts and circumstances related to the possible breach. It shall not contain conclusions or recommendations.

Article 15

1. On the basis of the preliminary assessment of facts report the Responsible Authority shall take a decision in accordance with Article 11.
2. If a case is closed in accordance with Article 11. 1 (a) or (b), the mission member having made a report pursuant to this Code and the victim, if any, of the alleged breach, if it is different, shall be informed about the decision. In addition, before such decision is taken, the victim, if any, of the alleged breach shall receive, in compliance with the principle of confidentiality, the summary of the statements(s) collected during the conduct a preliminary assessment of facts. The victim must also be heard before the decision to close the case is taken.

CHAPTER V

Disciplinary Investigation

Section 1: General principles

Article 16

1. If the Responsible Authority decides to commence a disciplinary investigation, it shall, within ten working days, appoint and instruct one or more investigating officers to conduct such an investigation. The Responsible Authority shall strive for gender and geographical balance within the investigation team taking into account the nature of the possible breach.

2. Investigating officers shall be impartial and, in principle, members of the mission or selected from the roster referred to in Article 5bis (4). The investigation officers shall not be of the same nationality as the person reporting the alleged breach or the person allegedly committing the breach.
3. The Civilian Operation Commander may entrust the Conduct and Integrity Entity to investigate the case upon request of the Head of Mission, of the Deputy Head Mission, or of the Seconding Authority whose personnel is involved in the case.
4. Upon his or her initiative the Civilian Operation Commander may decide to entrust the Conduct and Integrity Entity to investigate the case.
5. In cases where the Civilian Operation Commander or the Deputy Civilian Operation Commander is the Responsible Authority, disciplinary investigations will be conducted by the Conduct and Integrity Entity.
6. In the event that the disciplinary investigation concerns a seconded mission member, the Seconding Authority shall be notified in accordance with Article 18.

Article 17

1. The purpose of the disciplinary investigation is to obtain all relevant facts and circumstances related to the possible breach.
2. The disciplinary investigation shall be carried out objectively, independently, impartially and in due time whilst maintaining the highest standards of integrity, confidentiality and due process.

Article 18

1. The Responsible Authority shall notify the mission member under disciplinary procedure in writing about the decision to commence a disciplinary investigation, the allegations and the names of the investigating officers.
2. The notification shall be made within two (2) working days, taking into account the interest of the investigation. It shall include due information about the mission member's rights and obligations as outlined in Article 21.

3. The line manager of the mission member under disciplinary procedure shall be notified accordingly.
4. If the disciplinary investigation concerns a seconded mission member, the Seconding Authority shall be notified within two (2) working days about the decision to commence a disciplinary investigation and the allegations, by the Conduct and Integrity Entity or via the National Contingent Leader or other national point of contact in the mission.
5. The mission member or the victim, if any, having made a report pursuant to this Code will be notified about the decision to commence a disciplinary investigation within two (2) working days. The victim, if any, will be heard prior to the decision to commence a disciplinary investigation.

Article 19

1. The collection of evidence during the disciplinary investigation may comprise documentary or physical material, statements by the mission member under disciplinary procedure or witnesses and opinions of expert witnesses.
2. Notwithstanding the right to privacy of the mission member under disciplinary procedure, means of obtaining evidence may include observations, on-site inspections, the submission of written statements and interviews.

3. Where the mission member under disciplinary procedure is investigated, prosecuted, or tried ('criminal proceedings') for the same conduct by the competent authorities as mentioned in Article 2, the evidence collected there may also be taken into account for the disciplinary investigation.
4. In the case the possible breach leads to both, criminal proceedings and a disciplinary investigation under this Code, the Responsible Authority shall ensure that its actions do not in any way prejudice the criminal proceedings.
5. In the case the secondment or contract of the mission member under disciplinary procedure is terminated, the disciplinary procedure will nevertheless be carried out or continued in full.

Article 20

The investigating officers shall present the results of the disciplinary investigation in a disciplinary investigation report to the Responsible Authority. This disciplinary investigation report shall contain all facts and circumstances related to the possible breach and an annex consisting of the documents on which it is based. It shall not contain conclusions or recommendations.

Section 2: Rights and obligations of mission members under disciplinary procedure

Article 21

1. Subject to the limitations of (2) and (3), mission members under disciplinary procedure shall cooperate with the investigating officers.
2. They shall be given opportunity to respond to all allegations, orally and in writing, to comment on all evidence presented to them, and to provide information of their own. They may also, at their own discretion, decline to provide any response or information.
3. They shall have the right to seek assistance, of their own choice and at their own expense, from a person inside or outside the mission, including the National Contingent Leader or other national point of contact in the mission and external lawyers. This person shall respect the procedural rules as outlined in this Code and be granted the same procedural rights as the mission member under disciplinary procedure.
4. Without prejudice to their right to be accompanied, assisted, or represented in the proceedings, they shall not disclose any information relating to the proceedings, including personal data.

Section 3: Temporary measures

Article 22

1. In the event that the good functioning of the mission, the interests of the disciplinary investigation, the nature or severity of the possible breach so require, or in case of a specific emergency, the Responsible Authority may, having consulted the investigating officer(s), decide to suspend or temporarily reassign the mission member under disciplinary procedure.
2. The mission member under disciplinary procedure has the right to be heard before a decision as referred to in Article 22.1. is taken.
3. The period and scope of the suspension or temporary reassignment shall be proportionate and shall take into account the potential adverse effects on the mission member under disciplinary procedure. It may be extended if the conditions for its imposition continue to apply.
4. A suspension or temporary reassignment may last until the final decision is taken. The Responsible Authority shall review the measure of its own motion or upon request of the mission member under disciplinary procedure and shall revoke it, or adjust it, as soon as it is no longer necessary.

5. For the purpose of (3), the final decision is:
- a) For a seconded mission member, the decision taken by the Seconding Authority upon recommendation (Article 34.1) by the Responsible Authority;
 - b) For a contracted mission member, the decision taken in accordance with Article 34.2;
 - c) For the Head of Mission, the decision taken in accordance with Article 34bis.

Article 23

- 1. A decision to impose or extend a suspension or temporary reassignment shall outline its period and scope, and it shall state the reasons on which it is based.
- 2. The Responsible Authority shall notify the mission member under disciplinary procedure in writing of the decision within two (2) working days.
- 3. Article 18 (3) and (4) on the notification of the line manager and the Seconding Authority applies accordingly.

Article 24

1. The mission member under disciplinary procedure has the right to appeal against the decision or its extension, within ten working days from its notification.
2. The appeal shall be in writing, motivated and addressed to the Responsible Authority. Article 36 on the Responsible Authority for deciding on an appeal applies accordingly.
3. The appeal has no suspensive effect on the implementation of the decision to impose or extend a suspension or temporary reassignment.
4. If the appeal is admissible, the Responsible Authority for deciding on an appeal shall review and shall amend or confirm the decision. It may, however, not amend the decision to the detriment of the mission member under disciplinary procedure. Article 23 applies accordingly.

Section 4: Rights and obligations of other mission members

Article 25

1. All other mission members who can contribute to the investigation shall, likewise, cooperate with the investigating officers and shall process requests for information and documentation expeditiously and accurately.
2. They shall treat information and documentation that is pertinent to the disciplinary investigation in the strictest confidence.

CHAPTER VI

General principles of disciplinary decision-making

Article 26

1. The procedures of disciplinary decision-making in the first and second instance, as outlined in Chapters VII and VIII, apply equally to all mission members.
2. The ultimate decision to impose a disciplinary measure lies with:
 - (a) The Seconding Authority, for seconded mission members;
 - (b) The Responsible Authority as defined in Chapter III, for international contracted and locally contracted mission members.

Article 27

Any disciplinary measure shall be proportionate to the gravity of the breach, taking into account the mission member under disciplinary procedure's intention or level of negligence, the previous behaviour in the mission and adverse effects of the breach as well as the mission member's efforts to mitigate them. The Responsible Authority or the Seconding Authority may consult the Conduct and Integrity Entity for advice on the proportionality of the disciplinary measures.

Chapter VII

Disciplinary decision-making in the first instance

Section 1: Possible actions of the Responsible Authority

Article 28

1. On the basis of the disciplinary investigation report, the Responsible Authority shall, within ten working days, decide:
 - (a) To close the case without taking any further action, if the possible breach is not substantiated; or
 - (b) To close the case and make use of the instruments of Article 11. 1 (b), if the possible breach may be substantiated but does not merit a disciplinary measure; or
 - (c) To submit the disciplinary investigation report for advice to a Disciplinary Board, in all other cases.
2. The Responsible Authority shall, within two (2) working days., notify the mission member under disciplinary procedure in writing about the action taken. This notification should include a complete copy of the disciplinary investigation report. The Responsible Authority also notifies the Conduct and Integrity Entity. Article 11 and Article 18 (3) and (4) on the notification of the line manager and the Seconding Authority apply accordingly.

3. The Responsible Authority shall, within five working days, further inform a mission member having made a report pursuant to this Code about a decision to close the case.
4. If a case is closed in accordance with Article 28. 1 (a) or (b), before such decision is taken, the victim, if any, of the alleged breach shall receive, in compliance with the principle of confidentiality, the summary of the statements(s) collected during the investigation. The victim must also be heard before the decision to close the case is taken and must be informed about the decision within five days after the decision is taken.

Section 2: Disciplinary Board

Article 29

1. In the case of Article 28 (1) (c), the Responsible Authority shall, within ten working days, appoint a Disciplinary Board consisting of a chairperson, two other voting members and a secretary as a non-voting member. The Responsible Authority shall strive for gender and geographical balance within the Disciplinary Board.
2. Members of the Disciplinary Board shall be impartial towards the mission member under disciplinary procedure, have no personal interest in the case and shall preferably hold a more senior position than the mission member under disciplinary procedure. They shall be independent and shall not be subject to any instructions in the performance of their duties.

3. The Disciplinary Board shall be, in principle, composed of members of the mission or selected from the roster referred to in Article 5bis (4). No Board member shall be of the same nationality as the person reporting the alleged breach, the victim, if any, or the person allegedly committing the breach.
4. Upon request of the Responsible Authority, the Conduct and Integrity Entity may propose expert(s) from the roster referred to in Article 5bis(4) in addition to or instead of board members from the Mission. The investigating officer(s) who participated in the preliminary assessment of facts or disciplinary investigation cannot be appointed as member of the Disciplinary Board in the same case.
5. Where the Civilian Operation Commander or the Deputy Civilian Operation Commander is the Responsible Authority, experts shall be appointed from the roster referred to in Article 5bis (4) as members of the Disciplinary Board by the Deputy Civilian Operation Commander or the Civilian Operation Commander on the basis of a proposal by the Conduct and Integrity Entity.

Article 30

1. The Disciplinary Board shall carry out its activities objectively, independently, and impartially and in due time whilst maintaining the highest standards of integrity, confidentiality and due process.

2. The Disciplinary Board shall act on the basis of the disciplinary investigation report and in accordance with best disciplinary practice, including whether interviews shall be conducted or whether the case shall be considered on the basis of written submissions. Article 19 on the gathering of evidence and Article 25 on rights and obligations apply accordingly. Upon request of the mission member under disciplinary procedure, an interview shall be conducted.
3. The Disciplinary Board shall ascertain whether the facts and circumstances as presented in the disciplinary investigation report were properly established.
4. The Disciplinary Board shall establish whether it is convinced that the reported breach took place.
5. If this is the case, it shall consider whether the breach merits the imposition of a disciplinary measure.

Additional rules on the functioning of the Disciplinary Board, as contained in Instructions issued by the Civilian Operation Commander, apply.

Article 31

1. Based on a simple majority vote the Disciplinary Board shall provide the Responsible Authority with a written advice, including the reasons on which it is based.
2. The advice may propose:
 - (a) To close the case, with or without dealing with it as a management issue as provided in Article 11. 1(b); or
 - (b) To impose a disciplinary measure.

Section 3: Decision-making in the first instance and appeal

Article 32

1. On the basis of the advice of the Disciplinary Board, and in full respect of the principles of Article 30 (1), the Responsible Authority shall, within ten working days, take a decision. If it does not agree with the advice or the reasoning of the Disciplinary Board, it shall provide duly motivated reasons as to why it has deviated from them.
2. The mission member under disciplinary procedure has the right to be heard before a decision as referred to in the Articles 34 and 34bis is taken.

3. In addition, before the decision by the Responsible Authority is taken to the close case in accordance with Article 31. 2 (a), the victim, if any, of the alleged breach shall receive the summary of the advice of the Disciplinary Board in compliance with the principle of confidentiality. The victim must also be heard before such the decision is taken and must be informed about the decision within five days after the decision is taken.
4. The Responsible Authority shall notify the mission member under disciplinary procedure in writing about its decision, the advice of the Disciplinary Board and the right to appeal (Article 35). Article 11 (2) on the information of the Head of Mission and Article 18 (3) and (4) on the notification of the line manager and the Seconding Authority apply accordingly.
5. The Responsible Authority shall, within five working days after the decision is taken inform a mission member having made a report pursuant to this Code, if the decision does not impose any disciplinary measure.

Article 33

The disciplinary measures are:

- a) Written warning;
- b) Reducing the salary by a maximum of 30% for a period of maximum three month(s);
- c) Suspension without salary and allowances for a period of maximum three month(s);
- d) Non-renewal of contract
- e) Non-extension of tour of duty
- f) Termination of employment contract;
- g) Repatriation;
- h) Cooling off from civilian CSDP Missions for a period of maximum of three years
- i) Termination of appointment.

Article 34

1. For seconded mission members, the decision may consist of the recommendation of one of the disciplinary measures referred to in Article 33 under a) e) g) or h) where e) and g) may be combined with h) to the Seconding Authority, notwithstanding measures taken by this authority following its own rules and legislation.

2. For international contracted and locally contracted mission members, the decision may consist of the imposition of one of the disciplinary measures as referred to in Article 33-under a) b) c) d) f) h) where d) and f) may be combined with h).

34bis

1. For what concerns the Head of Mission, the decision by the Civilian Operation Commander may consist of the imposition of one of the disciplinary measures referred to in Article 33 (a), or (i).
2. In cases where the Civilian Operation Commander takes a measure pursuant to Article 33 (a), they inform the European Commission.
3. The Civilian Operation Commander may impose disciplinary measures pursuant to Article 33(i) provided that the Political and Security Committee Decision on the appointment of the Head of Mission concerned contains an authorisation to that effect.
4. In cases where the Civilian Operation Commander takes a measure pursuant to Article 33 (i), they inform the High Representative, the Political and Security Committee, and the authorities of the State of nationality prior to such decision.

5. In cases where the Civilian Operation Commander takes a decision in accordance with paragraph 3 of Article 34bis, they inform the European Commission in order for it to take the necessary measure to terminate the CFSP Special Adviser's employment contract concluded with the Head of Mission.

Article 35

1. The mission member under disciplinary procedure has the right to appeal against the decision to recommend or to impose a disciplinary measure within ten working days from its notification.
2. This appeal shall be in writing, motivated and addressed to the Responsible Authority as outlined in Article 36, which shall take the final decision.
3. The appeal has suspensive effect on the implementation of the disciplinary measure.

CHAPTER VIII

Disciplinary decision-making in the second instance (appeal procedure) Section 1: General provisions

Article 36

1. The Head of Mission is the Responsible Authority for deciding on an appeal against a decision of the Deputy Head of Mission.

2. The Civilian Operation Commander is the responsible authority for deciding on an appeal against a decision of the Deputy Civilian Operation Commander.
3. The High Representative is the Responsible Authority for deciding on an appeal against a decision of the Civilian Operation Commander. The High Representative may delegate this power to a person placed under his or her direct authority.

Article 37

The Responsible Authority for deciding on an appeal shall submit the case for advice to a Disciplinary Board of Appeal.

Article 38

The provisions of Chapter VII apply accordingly to the appeal procedure, if not provided otherwise.

Section 2: Disciplinary Board of Appeal

Article 39

1. The Responsible Authority for deciding on an appeal, shall, within ten working days, appoint a Disciplinary Board of Appeal consisting of a chairperson, two other voting members and a secretary as a non-voting member. The Responsible Authority shall strive for gender and geographical balance within the Disciplinary Board of Appeal.

2. Investigating officer(s) and members who participated in the preliminary assessment of facts or disciplinary investigation of the Disciplinary Board shall not be appointed as members of the Disciplinary Board of Appeal in the same case.
3. The Disciplinary Board of Appeal shall be, in principle, composed of members of the mission or selected from the roster referred to in Article 5bis 4. No Board member shall be of the same nationality as the person reporting the alleged breach or the person allegedly committing the breach. Upon request of the Responsible Authority the Conduct and Integrity Entity may propose expert(s) from the roster referred to in Article 5bis(4) in addition to or instead of board members from the Mission.
4. In cases dealt with under the authority of the High Representative, external expert(s) shall be appointed as members of the Disciplinary Board of Appeal by the Civilian Operation Commander, on the basis of the proposal by the Conduct and Integrity Entity.

Section 3: Decision-making in the second instance

Article 40

1. On the basis of the advice of the Disciplinary Board of Appeal and in full respect of the principles of Article 30 (1), the Responsible Authority for deciding on an appeal shall, within ten working days, take a decision.

2. If the appeal is admissible, the Responsible Authority shall review and shall amend or confirm the decision. It may, however, not amend the decision to the detriment of the mission member under disciplinary procedure.
3. If they do not agree with the advice or the reasoning of the Disciplinary Board of Appeal, it shall provide the duly motivated reasons as to why it has deviated from them.
4. The Responsible Authority shall immediately notify the mission member under disciplinary procedure in writing about its decision and about the advice of the Disciplinary Board of Appeal. Article 11 (2) on the information of the Head of Mission and Article 18 (3) and (4) on the notification of the line manager and the Seconding Authority apply accordingly.
5. In addition, before the decision by the Responsible Authority is taken to amend or confirm the decision in accordance with Article 40. 2, the victim, if any, of the alleged breach shall receive the summary of the advice of the Disciplinary Board of Appeal in compliance with the principle of confidentiality. The victim must also be heard before such the decision is taken and must be informed about the decision within five days after the decision is taken.

6. The Responsible Authority shall, within five working days, further inform a mission member having made a report pursuant to this Code of Conduct and following, if the decision does not impose any disciplinary measure.

CHAPTER IX

Implementation of the decision

Article 41

1. The Head of Mission shall facilitate the implementation of any decision on disciplinary measures taken by a Seconding Authority over a seconded mission member, upon this Seconding Authority's request.
2. The Head of Mission shall implement any decision on disciplinary measures taken by the Responsible Authority as mentioned in Chapter III over an international contracted or locally contracted mission member.

CHAPTER X

Final Provisions

Article 42

If criminal investigations regarding mission members are conducted by the competent authorities as defined in Article 2 (3) of this Code, the mission shall assist them, upon request, in accordance with the rules applicable to these investigations and having regard to the applicable Council decision as well as the Status of Mission Agreement (SOMA) or exchange of letters between the European Union and the host state.

Article 43

1. All persons and authorities acting within the framework of this Code shall act promptly and without undue delay.
2. The duration of the disciplinary procedure, which includes the implementation of the final decision, shall be proportionate and shall take into account the potential adverse effects on involved individuals. In principle, it should not exceed 6 months.
3. The timelines given in this Code, with the exception of Articles 24 (1) and 35 (1), may be deviated from under exceptional circumstances that are beyond the control of the mission or the Responsibility Authority. If timelines are deviated from, it shall be duly motivated and communicated to the involved personnel.

Article 44

All communications, reports and investigations in the framework of this Code shall be issued and conducted in the working language of the mission. Where deemed necessary, for example in case of the involvement of a locally contracted mission member, a mission interpreter shall be appointed to assist.

Article 45

1. In the framework of this Code, personal data shall be collected only to the extent necessary and relevant and in accordance with the principles and procedures of personal data protection as contained, in particular, in the Civilian Operation Commander Instruction 17-2018 for the Missions and in Regulation (EU) 1725/2018 for what concerns the EEAS.
2. All documents related to a disciplinary investigation shall be kept in disciplinary files, which shall be fully separated from mission members' personal files. Advice of Disciplinary Boards, final decisions and, upon request of the mission member under disciplinary procedure, also decisions to close a case shall be included in the personal files and shall be removed from them in accordance with the applicable rules. Once removed, they must not be referred to any further in subsequent disciplinary procedures.
3. For the purpose of (2), final decisions are decisions taken according to Articles 33, 34 or 34bis in first instance or upon appeal, and decisions taken by the Seconding Authority upon recommendation (Article 34).

4. The Head of Mission shall collect aggregated statistical data on the numbers of disciplinary procedures, on their main subjects, on the substantial decisions taken, and on appeals. This data shall be shared with the Civilian Operation Commander and the Conduct and Integrity Entity on a regular basis.
5. The statistics on conduct and integrity matters will be aggregated by the Conduct and Integrity Entity and will be part of the Annual report as referred in Article 48.

Article 46

If the Responsible Authority decides to deal with the case as a management issue pursuant Article 11. 1, b or a recommendation is made in accordance with Article 34 and 34bis, the disciplinary investigation report as referred to in Article 20 shall be communicated, upon its request, to the Seconding Authority and in case of the Head of Mission, the authorities of the State of nationality, whose personnel was under disciplinary procedure.

Article 47

This Code of Conduct shall be reviewed at least every four (4) years. An annual report prepared by the Conduct and Integrity Entity on the implementation will be presented to the Member States by the EEAS.

Article 48

This Code of Conduct enters into force on the day after its approval by the Council. It will be applicable as of the first day of the second month following its approval for reports submitted to the Responsible Authority following this date.

ANNEX I

Roster

1. In accordance with Article 5(4), a roster is established to facilitate the implementation of the Code of Conduct with enhancing the availability of independent and impartial experts.
2. The roster is composed by international Mission members, Member States and EEAS experts. Member States will appoint a dedicated focal point.
3. The roster is established and kept updated by the Conduct and Integrity Entity. The roster composition shall respect gender and national balance.
4. The Civilian Operation Commander will send a Call for Contributions for the experts to the PSC at least once a year. The name of the experts will be sent directly to the Conduct and Integrity Entity.

5. The Civilian Operation Commander will instruct the Missions to make available experts for the roster at least once a year. The name of the experts will be sent directly to the Conduct and Integrity Entity.
6. The Civilian Operation Commander/Managing Director of MD CPCC will request the EEAS to seek experts available for the roster. The name of the experts will be sent directly to the Conduct and Integrity Entity.
7. Experts identified as part of the roster commit in principle for a six-month availability, renewable every semester. The list of experts is communicated to the Civilian Operation Commander.
8. If the Deputy Head of Mission or the Head of Mission considers that no Mission member fulfils the conditions set in Article 12 (2), Article 16 (2), Article 29 (2) or Article 39 (2) of this Code, they shall request the Conduct and Integrity Entity to provide experts to exercise these functions. All costs related to the expert activities will be borne by the Mission requesting the assistance.
9. When the Responsible Authority is the Deputy Civilian Operation Commander or the Civilian Operation Commander, the Conduct and Integrity Entity proposes expert(s) from the roster to implement its tasks. All costs related to the expert activities will be borne by the Mission where the alleged breach has happened.