



European Economic and Social Committee

DECISION N° 104/09 A

REPEALING DECISION N° 293/07A OF 18 JUNE 2007

**LAYING DOWN RULES ON THE SECONDMENT OF NATIONAL EXPERTS
TO THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE**

THE SECRETARY-GENERAL,

Whereas:

- (1) Seconded National Experts (SNEs) should enable the EESC to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available.
- (2) It is highly desirable to foster the exchange of professional experience in, and knowledge of, European policies by temporarily assigning to the EESC experts from the public institutions of the Member States.
- (3) In order to guarantee that the independence of the institution is not compromised by private interests, it should be stipulated that SNEs be drawn from international, national, regional or local public or quasi-public institutions (e.g. governments, state departments, national economic and social councils) not only in the Member States but also in the European Economic Area (EEA), countries that are candidates for EU membership or third countries.
- (4) The rights and obligations of SNEs set out in this Decision should ensure that they carry out their duties solely in the interests of the EESC.
- (5) In view of the temporary nature of their work and their particular status, it should be provided that SNEs should not, acting on their own, take responsibility on behalf of the EESC for the exercise of its public law prerogatives.
- (6) Daily and monthly allowances should be reviewed taking account of changes in the basic salaries of Community officials in Brussels and Luxembourg,

HAS DECIDED AS FOLLOWS:

Chapter I

General provisions

Article 1 - Scope

1. These Rules are applicable to national experts seconded to the EESC, hereinafter referred to as seconded national experts, or SNEs.
Seconded national experts shall be persons seconded to the EESC by an international, national, regional or local public or quasi-public institution.
Within the meaning of this decision, a public institution shall include all the central, federal and territorial administrative departments of a state, namely ministries, government and parliamentary departments, courts, central banks, local government departments, and the decentralised administrative departments of that state and its constituent authorities.
Persons covered by these Rules shall have been employed by their employer for at least twelve months as an established or contracted member of staff before their secondment and shall remain in the service of this employer during the period of secondment. In this connection, the employer of the SNE shall undertake to continue to pay the SNE's salary, maintain the SNE's established or contractual status throughout the period of secondment and inform the Directorate-General for Personnel and Administration of any change in the situation of the SNE in this respect. The employer shall also continue to guarantee all the SNE's social rights, particularly as regards social security and pension rights. Any break or modification of this established or contractual status shall entitle the EESC to terminate the SNE's secondment without notice, in accordance with Article 7(2c).
2. Except where the Secretary-General of the EESC grants a derogation, an SNE must be a national of a Member State, an EEA country or of one of the countries that are candidates for EU membership.
3. Secondment shall be effected by an exchange of letters between the Secretary-General of the EESC and the Office of the Permanent Representative of the Member State concerned or, as the case may be, with the secretariat of EFTA or the diplomatic missions of the third countries from which the expert is seconded. Correspondence shall be exchanged with the EFTA Secretariat for countries of the EEA and with the appropriate diplomatic missions in the case of other non-member countries. A copy of the rules applicable to national experts on secondment to the EESC shall be attached to the exchange of letters.
4. Any reference in these Rules to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.
5. The EESC shall set up a selection procedure by forming a joint body. Applications shall be forwarded by the Offices of the Permanent Representatives of the Member States of the

European Union (hereinafter referred to as "PRs") or, when the vacancy notice so provides, by the EFTA Secretariat or the diplomatic missions of the third countries from which the expert is seconded.

6. This body shall verify that SNE are recruited having regard to the conditions of eligibility and the criteria of professional experience described in Article 5 of these Rules.

Article 2 - Period of secondment

1. Initial periods of secondment may not be less than six months nor more than two years. They may be renewed once or more, up to a total period not exceeding four years. In exceptional circumstances, and in the interest of the service, the Secretary-General may authorise one or more extensions of the secondment for a maximum of two years at the end of the four-year period.
2. The intended period of secondment shall be fixed at the outset in the exchange of letters provided for in Article 1(4). The same procedure shall apply in the case of a renewal of the period of secondment.
3. An SNE who has already been seconded to the EESC may be seconded a second time subject to Article 2(1) of these Rules and subject further to the following conditions:
 - a) the SNE must continue to meet the conditions for secondment;
 - b) a period of at least six years must have elapsed between the end of the previous period of secondment and a new secondment; if, at the end of the first secondment, the SNE has received a contract with the EESC, the six-year period shall begin to run from the expiry of that contract. The condition in point b) shall not prevent the EESC from accepting the secondment of an SNE whose initial secondment has lasted for less than four years, but in that case the new secondment shall not exceed the unexpired part of the four-year period, without prejudice to the possibility of extending the secondment for up to two additional years provided for in Article 2(1).

Article 3 - Duties

1. SNEs shall assist EESC officials or temporary servants performing the tasks assigned to them based on their professional knowledge and experience.
2. An SNE shall take part in missions or in external meetings only if accompanying an EESC official or temporary servant or acting alone as an observer or for information and/or contact purposes.

However, the Secretary-General or the Director for Human Resources and Internal Services may give a specific mandate for one or more missions to the SNE after having ensured that there is no potential conflict of interest. Under no circumstances may an SNE on his own represent the EESC with a view to entering into commitments, whether financial or otherwise,

or negotiating on its behalf.

3. An SNE may, however, represent the EESC in legal proceedings if he is accompanied by an official or other servant who is bound by the Staff Regulations, and may as such act on its behalf.
4. The EESC shall remain solely responsible for approving the results of any tasks performed by an SNE and for signing any official documents arising from them.
5. Every effort must be made by the EESC departments concerned, by the SNE's employer and by the SNE to avoid any conflict of interest in relation to the SNE's duties while seconded to the EESC.
6. The SNE shall declare any potential conflict of interest between his family circumstances and the proposed duties while on secondment. In particular, he shall declare the professional activities of close family members or any important interests of his own or of those persons.
7. The employer and the SNE shall be asked to undertake to declare any change of circumstances during the secondment which could give rise to any such conflict to the Director for Human Resources and Internal Services.
8. Failure on the part of the SNE to comply with his obligations shall entitle the EESC, if it sees fit, to terminate the secondment of the SNE under the terms of Article 8.

Article 4 - Rights and obligations

1. During the period of secondment:
 - a) the SNE shall to carry out his duties and shall conduct himself solely with the interests of the Communities in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside the EESC. He shall carry out the duties assigned to him objectively and impartially and in keeping with his duties of loyalty towards the Communities. He shall not undertake any activities for his employer, for governments or for any other persons, private companies or public bodies;
 - b) the SNE shall refrain from any action or behaviour which might reflect adversely upon his position;
 - c) the SNE shall not, in the performance of its duties, deal with a matter in which, directly or indirectly, he has any personal interests such as to impair his independence, in particular family or financial interests. If it falls in the performance of his duties to deal with such a matter, he shall inform his Head of Unit immediately who shall take any appropriate measure, and may, in particular, relieve the SNE from responsibility in this matter.

- d) the SNE shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public;
- e) the SNE has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.

The SNE who intends to publish or cause to be published, whether alone or with others, any document dealing with the work of the Communities shall inform the Director for Human Resources and Internal Services in advance. Where the latter is able to demonstrate that the publication in question is liable seriously to prejudice the legitimate interests of the Communities, he shall inform the SNE of his decision in writing within thirty working days of receipt of the information. If no such decision is notified within the specified period, the Director for Human Resources and Internal Services shall be deemed to have had no objections;

- f) all the rights in any work done by the SNE in the performance of his duties shall be the property of the EESC;
 - g) the SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities;
 - h) based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in the EESC to whom he is assigned and shall be responsible to his superiors for performance of the tasks entrusted to him.
2. Failure to comply with any of the provisions of paragraph 1 during the period of secondment shall entitle the EESC, if it sees fit, to terminate the secondment of an SNE pursuant to Article 7.
 3. After termination of the secondment, an SNE shall continue to be bound by the duty to behave with integrity and discretion as regards the exercise of new tasks assigned to him and the acceptance of certain appointments or benefits. To this end, during the three years after the period of secondment an SNE shall inform the EESC without delay of any duties which he is required to carry out for his current employer which may give rise to any conflict of interest in relation to his duties while seconded to the EESC.

Article 5 - Professional experience and knowledge of languages

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

2. The SNE shall supply the EESC with statements signed by his previous employer(s) demonstrating the experience of at least three years referred to in the previous point.
3. An SNE must have a thorough knowledge of one Community language, and a satisfactory knowledge of a second language, for the performance of his duties. An SNE from a non-member country must have a thorough knowledge of one Community language for the performance of his duties.

Article 6 – Breaks in periods of secondment

1. The EESC may authorise breaks in periods of secondment and specify the terms applicable. During such breaks:
 - a) the allowances referred to in Article 14 shall not be payable;
 - b) the expenses referred to in Articles 16 and 17 shall be payable only if the break is at the EESC's request.
2. The EESC shall inform the SNE's employer.

Article 7 – Termination of periods of secondment

1. Subject to paragraph 2, the secondment may be terminated at the request of the EESC or of the SNE's employer, on the party concerned giving three months' notice to the other party. It may also be terminated on giving the same notice at the SNE's request.
2. In exceptional circumstances the secondment may be terminated without notice:
 - a) by the SNE's employer, if the employer's essential interests so require;
 - b) by the EESC and the employer acting jointly, on request by the SNE to both parties, if the SNE's essential personal or professional interests so require;
 - c) by the EESC in the event of a failure by the SNE and/or his employer to respect his obligations under this Decision or for a serious offence by the SNE in connection with the service.

In the event of termination under point c), the EESC shall immediately inform the employer.

Chapter II

Working conditions

Article 8 - Social Security

1. Before the period of secondment begins, the national or international civil service from which the SNE is to be seconded, shall certify to the EESC that he will remain, throughout the period of secondment, subject to the social security legislation applicable to that civil service and will assume responsibility for expenses incurred abroad. If the period of secondment is extended, such certification must be renewed for the corresponding period.
2. Before the period of secondment begins, the SNE's employer shall provide the EESC with the certificate referred to in Article 11(1) of Council Regulation (EEC) No. 574/72¹.
3. From the day on which their secondment begins, SNEs shall be covered by the EESC against the risk of accident at the workplace or on the way to work.

Article 9 - Working hours

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

Article 10 - Sick leave

1. In the event of absence from work for reasons of sickness or accident, the SNE shall notify his Head of Unit as soon as possible, stating his present address. He shall produce a medical certificate if absent for more than three days and may be required to undergo a medical examination arranged by the EESC.
2. If such absence due to sickness or accident of not more than three days exceeds a total of twelve days over a period of twelve months, the SNE shall produce a medical certificate for any further absence due to sickness.
3. Where the period of sick leave exceeds one month, or the period of service performed by the SNE, whichever is longer, the allowances referred to in Article 14 shall be automatically suspended. This provision shall not apply in the event of illness linked to pregnancy.

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

4. SNEs who are the victim of a work-related injury which occurs during the secondment shall

¹ OJ L 74, 27/03/1972, p.1.

continue to receive the allowance in full throughout the period during which they are unfit for work up to the end of the secondment.

Article 11 - Annual and special leave

1. SNEs working full-time shall be entitled to two-and-a-half working days of leave per whole month of service, giving 30 days per calendar year.
2. Leave is subject to prior authorisation by the service to which the SNE is assigned. In case of unauthorised leave, the relevant daily allowance shall not be paid for each day of unauthorised leave. The supplementary flat-rate allowance will also be reduced in proportion to the length of the unauthorised leave.
3. SNEs may, on submitting a reasoned application, be granted special leave in the following cases:
 - a) marriage of the SNE: two days;
 - b) serious illness of spouse: up to three days;
 - c) death of spouse: four days;
 - d) serious illness of a relative in the ascending line: up to two days;
 - e) death of a relative in the ascending line: two days;
 - f) birth of a child: ten days;
 - g) serious illness of a child: up to two days;
 - h) death of a child: four days;
 - i) removal for taking up duty: two days;
 - j) adoption of a child: 20 weeks, or 24 weeks in the case of adoption of a disabled child.
4. Upon a duly justified request from the SNE's employer, up to two days of paid special leave in a 12-month period of actual secondment to the EESC may be granted by the Directorate for Human Resources and Internal Services, after receiving the consent of the director to whom the SNE is responsible. Upon a duly justified request from the SNE, up to 5 days of special leave per 12-month period of actual secondment to the EESC may be granted by the Directorate for Human Resources and Internal Services, after receiving the consent of the director to whom the SNE is responsible, if this paid special leave is in the interest of the EESC; additional unpaid special leave may be granted in case of duly proven need. In this case the daily subsistence allowance shall not be paid for each day of unpaid special leave. The supplementary flat-rate allowance will also be reduced in proportion to the length of such leave.

Requests shall be examined case by case.

The different types of special leave may be added together.

5. The entitlements set out in paragraphs 1, 3 and 4 shall be considered exhaustive. In particular, no further entitlement shall be allowed in respect of travel, age or category.

6. Days of annual or special leave not taken by the end of the secondment shall be forfeited.
7. If an SNE, for reasons not due to service needs, has not used up his annual leave by the end of the current calendar year, no more than 12 days may be carried over to the following year.

Article 12 - Maternity leave

1. An SNE who is pregnant shall be granted maternity leave of twenty weeks, during which period she shall receive the allowances as set out in Article 14. The leave shall start not earlier than six weeks before the expected date of confinement shown in the certificate and end not earlier than 14 weeks after the date of confinement. In the case of multiple or premature birth or the birth of a handicapped child, the duration shall be of 24 weeks. Premature birth for the purposes of this provision is a birth taking place before the end of the 34th week of pregnancy.
2. Where the relevant rules binding the employer of the SNE grant a longer period, a break in the secondment under the provisions of Article 9 shall be applied for the period exceeding that granted by the EESC.
3. A period equivalent to the break shall be added to the end of the secondment if the interests of the EESC warrant it.
4. An SNE may, as an alternative, apply for a break in the secondment to cover the sum of the periods allowed for maternity leave. In that case, the second subparagraph of paragraph 2 shall apply.
5. Days of maternity leave not taken by the end of the secondment shall be forfeited.

Article 13 - Management and control

Management of leave, working time and absences shall be the responsibility of the directorate or service to which the SNE is assigned, with control being centralised in the competent service in the Directorate for Human Resources and Internal Services.

Chapter III

Allowances and expenses

Article 14 - Subsistence allowances

1. An SNE shall be entitled, throughout the period of secondment, to a daily subsistence allowance for each calendar day. Where the distance between the deemed residence as determined in accordance with Article 15 and the place of secondment is 150 km or less, the daily allowance shall be 30.75 EUR; where the distance is more than 150 km, the daily allowance shall be 122.97 EUR..
2. If the SNE has not received removal expenses as provided for in Article 17 from any sources, an additional monthly allowance shall be paid as shown in the table below:

Distance between the deemed residence and the place of secondment (km)	Amount in EUR
0 – 150	0
> 150	79.04
> 300	140.52
> 500	228.36
> 800	368.89
> 1300	579.68
> 2000	693.88

3. Subsistence allowances shall be payable for periods of mission, annual leave, special leave and holidays granted by the EESC, unless otherwise indicated.
4. SNEs who, during the three years ending six months before the secondment, have habitually resided or carried on their main occupation at a distance of 150 km or less from the place of secondment shall receive 25% of the daily allowance.

For the purpose of this paragraph, circumstances arising from work done by SNEs for a state other than that of the place of secondment, or for an international organisation, shall not be taken into account.

5. When the SNE starts the secondment, the first 75 days of the subsistence allowances to which he is entitled shall be advanced in the form of a lump sum and the allowances shall not be paid during the corresponding period. This lump sum shall be paid by the 25th day of the month for SNEs starting on the first day of the same month. For SNEs starting on the 16th day of the month, this lump sum will be paid by the 10th day of the following month. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.
6. The SNE shall inform the Directorate for Human Resources and Internal Services of any similar payments received from other sources. Any such amounts shall be deducted from the corresponding allowance paid by the EESC pursuant to paragraph 1.
7. Daily and monthly allowances shall be reviewed each year on 1 January without retroactive effect taking account of changes in the basic salaries of Community officials at Brussels and Luxembourg.
8. The daily and monthly allowances shall be paid by the 25th day of each month.
9. The daily and monthly allowances are intended to cover on a flat rate basis the living expenses of SNEs in the place of secondment, and shall under no circumstances be construed as remuneration paid by the EESC.

Article 15 – Deemed residence

1. For the purposes of this decision, the deemed residence shall be the place where the SNE has performed his duties for the employer immediately prior to the secondment. The place of secondment shall be the place where the EESC department to which the SNE is assigned is located. Both places shall be identified in the exchange of letters mentioned in Article 1(4).
2. If, on a date six months before his secondment to the EESC as an SNE, a national expert is already working or living in a place different from that in which the employer's head office is located, the residence shall be deemed whichever of the places is closer to the place of secondment.
3. The deemed residence shall be considered to be the place of secondment in the following cases:
 - a) where, during the three years ending six months before the start of the secondment, either the SNE's habitual residence or his main occupation was at a place situated 150 km or less from the place of secondment; or
 - b) where at the time of the EESC's formal request for the secondment, the place of

secondment is the principal residence of the SNE's spouse or of any of his dependent children.

4. Circumstances arising from work done by the SNE for a State other than that of the place of secondment, or for an international organisation, shall not be taken into account for the purpose of paragraph 3 (a).

Article 16 - Travel expenses

1. An SNE whose deemed residence is more than 150 km from the place of secondment shall be entitled to reimbursement of travel expenses in accordance with the following rules:

- a) He shall be entitled on his own account:

- i) from the deemed residence to the place of secondment at the beginning of the period of secondment;
- ii) from the place of secondment to the deemed residence at the end of the period of secondment;

- b) He shall be entitled in respect of his spouse and dependent children, provided that they live with him and that the removal is to be reimbursed by the EESC in accordance with Article 17:

- i) at the beginning of the secondment, on removal from the deemed residence to the place of secondment;
- ii) at the end of the secondment, from the place of secondment to the deemed residence.

2. Unless the journey is made by air, the amount reimbursed shall be a flat rate, limited to the cost of the second-class rail fare, without supplements. This shall also apply to journeys made by car.

Air travel expenses shall be reimbursed up to actual cost of a reduced-price economy class ticket, on production of tickets and boarding cards. Such reimbursement shall be granted only where the standard rail journey exceeds 500 km or where the standard route involves a sea crossing.

3. By way of derogation from paragraph 1, SNEs who prove that they have changed the place at which they will be primarily employed after the end of the secondment shall be entitled to reimbursement of the travel expenses to that place up to the limits set out in paragraphs 1 and 2. The reimbursement may not involve the payment of a sum higher than that to which he is entitled in case of return to the deemed residence.

4. If the SNE has effected his removal from his deemed residence to his place of secondment, he shall be entitled for each 12-month period of secondment to a flat-rate payment equal to the cost of a return journey from his place of secondment to his deemed residence for himself, his spouse and any dependent children on the basis of the conditions in force at the EESC.
5. The EESC shall not reimburse any expenses referred to in the preceding paragraphs where they have actually been met or reimbursed by the employer. For this purpose the SNE shall declare any such payments or reimbursements to the EESC or certify that no such payments or reimbursements have been made.

Article 17 - Removal expenses

1. Unless the second subparagraph of Article 14(4) applies, an SNE may remove his personal effects from the deemed residence to the place of secondment, at the EESC's expense and after obtaining its prior authorisation, pursuant to the rules in force at the time concerning reimbursement of removal costs if the following conditions are met:
 - a) the SNE's initial period of secondment must be for two years;
 - b) the SNE's deemed residence must be 150 km or more from the place of secondment;
 - c) the removal must be completed within six months of the starting date of the secondment;
 - d) the authorisation must be requested at least two months before the intended date of removal;
 - e) the removal costs are not being met by the employer: in the event of partial reimbursement by the employer, an equal amount shall be deducted from the reimbursement payable by the EESC;
 - f) the SNE must produce originals of estimates, receipts and invoices to the EESC and a certificate from the employer, either confirming that the employer is not reimbursing removal costs or stating what part of the costs the employer is paying.
 - g) if the secondment is terminated by the EESC during the first three months because the SNE has not respected his obligations (Article 8) the amounts received by the SNE as removal costs must be paid back to the EESC.
2. Subject to paragraphs (3) and (4), where the removal to the place of secondment has been reimbursed by the EESC, the SNE shall be entitled at the end of the secondment, after prior authorisation, to reimbursement of removal costs from the place of secondment to the deemed residence, pursuant to any internal rules in force at the time concerning

reimbursement of removal costs, subject to the conditions set out in points (d), (e) and (f) of paragraph 1, and to the following further conditions:

- a) the removal must not take place earlier than three months before the end of the secondment;
 - b) the removal must be completed within six months following the end of the secondment.
3. An SNE whose secondment is terminated at his request or at the employer's request within two years from the start of the secondment shall not be entitled to reimbursement of removal costs to the deemed residence.
 4. Where the SNE proves that the place where he will pursue his main occupation after secondment has changed, removal costs to that new place may be reimbursed, but only up to the amount which would have been paid in the case of removal to the deemed residence.

Article 18 - Missions and mission expenses

1. An SNE may be sent on mission subject to Article 3.
2. Mission expenses shall be reimbursed in accordance with the rules and conditions relating to the payment of mission expenses in force at the EESC.

Article 19 - Training

SNEs shall be entitled to attend training courses organised by the EESC, if the interests of the EESC warrant it. The reasonable interests of the SNE in attending, in particular in the light of the SNE's professional career following secondment, shall be considered when a decision is taken on whether to permit attendance.

Article 20 - Administrative provisions

The SNE shall report to the appropriate department of the Directorate for Human Resources and Internal Services on the first day of the secondment to complete the relevant administrative formalities. He shall take up duty on either the first or the sixteenth day of the month.

Chapter IV

Complaints

Article 21

Any SNE seconded for more than 6 months may submit to the Directorate for Human Resources and Internal Services a complaint against an act under this Decision by EESC services, adversely affecting him except decisions which are direct consequences of decisions taken by his employer. The complaint must be lodged within two months. The period shall start to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification. The Secretary-General shall notify the person concerned of his reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period no reply to the complaint has been received, this shall be deemed to constitute an implied decision rejecting it.

Chapter V

Final provisions

Article 22 – Entry into force

This decision shall come into force on 1 January 2009. It shall repeal EESC Decision No. 293/07A of 18 June 2007 laying down rules on the secondment of experts.

From that date onwards it shall apply to all current and future secondments of SNEs.

Done at Brussels, 18 February 2009.

The Secretary-General,

SIGNED

Martin Westlake