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DEC/MB/10/02

Decision of the Management Board of the European Monitoring Centre for Drugs and Drug Addiction (EMCDDA) on the adoption of EMCDDA provisions for the use of seconded national experts

THE MANAGEMENT BOARD OF THE EMCDDA,

Having regard to Council Regulation (EEC) 1920/2006 of 12 December 2006, on the European Monitoring Centre for Drugs and Drug Addiction (recast)¹, and in particular to Article 18 thereto,

Whereas it is necessary and opportune for the EMCDDA to adopt the appropriate rules to govern its relations with national experts seconded to their services,

HAS DECIDED AS FOLLOWS:

Article 1

The decision laying down rules on the secondment of national experts to the European Commission adopted by the latter, as in Annex to the present decision, shall apply by analogy to the EMCDDA.

Article 2

The Director of the EMCDDA shall take the measures required for the implementation of this decision including the possible technical adjustments required by the corresponding amendments of the rules of the European Commission applied by analogy.

Article 3

This decision repeals and replaces all decisions previously adopted by the EMCDDA Management Board on the same subject matter.

¹ O.J. N° L 376/1, 27.12.06, regulation (EC) No 1920/2006 of the European Parliament and of the Council of 12/12/2006.

Article 4

This decision shall enter into force on the day following to the date of its adoption.

Done in Lisbon, on 5 May 2010.

For the Management Board

The Chairperson

A handwritten signature in black ink, appearing to be 'João Goulão', written in a cursive style.

João Goulão

Annex

Brussels, 12.11.2008
C(2008) 6866 final

COMMISSION DECISION

of 12.11.2008

laying down rules on the secondment to the Commission of national experts

and national experts in professional training

COMMISSION DECISION

of 12.11.2008

laying down rules on the secondment to the Commission of national experts and national experts in professional training

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Whereas:

(1) Seconded national experts (SNEs) should enable the Commission to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available.

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

(3) In order to ensure that the Commission's independence is not compromised by private interests, it should be stipulated that SNEs must come from a national, regional or local public administration or an IGO. The secondment of an SNE by an employer other than a national, regional or local public administration or an IGO should be authorised only on a case-by-case basis, once it has been ascertained that the SNE's employer is part of the public sector or is an independent university or research organisation that does not seek to make profits for redistribution.

(4) In order to avoid any conflict of interests, the rights and obligations of SNEs, as set out in this Decision, should ensure that they carry out their duties solely in the interests of the Commission.

(5) In view of their special status, it should be stipulated that SNEs acting alone will not exercise any of the responsibilities that belong to the Commission by virtue of the powers conferred upon it, unless specially empowered to do so in writing by the Director-General of the department to which they are seconded.

(6) It is desirable to consolidate the Rules applicable to SNEs in a single text, preserving their specific features while also simplifying them and, in the case of working conditions and the granting of subsistence allowances, by bringing them as much as possible into line with the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities, but without actually assimilating SNEs to these categories.

(7) Steps should be taken to make it easier to review subsistence allowances, taking account of adjustments to the basic salaries of Community officials in Brussels and Luxembourg.

(8) In view of the importance of training officials of the Member States – and, where appropriate, of EFTA countries, candidate countries and IGOs – in Community policies and the Commission's working methods, a specific legal and administrative framework for the induction and professional training of these officials, to be known as national experts in professional training (NEPTs), should be set up.

(9) The Permanent Representations of the European Union Member States play a crucial role in implementing these Rules and should therefore enjoy a particularly close working relationship with the Commission,

HAS ADOPTED THIS DECISION:

TITLE I

SECONDED NATIONAL EXPERTS

Chapter I

General provisions

Article 1

Scope and definitions

1. These Rules shall apply to national experts seconded to the Commission (hereinafter referred to as SNEs or seconded national experts).

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

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

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

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

2. Notwithstanding the second subparagraph of paragraph 1, the Director-General of Personnel and Administration may, on a case-by-case basis, authorise the secondment of an SNE from an employer other than a State public administration or an IGO if the interests of the Commission warrant bringing in specific expertise as a temporary measure, provided that the SNE's employer:

- is an independent university or research organisation which does not set out to make profits for redistribution; or
- is in fact part of the public sector.

For the purposes of this Decision, to qualify as being part of the public sector the SNE's employer must meet all the following conditions:

- it must be attached to a public administration, as defined in paragraph 1, and specifically it must have been created by legislation or regulation;
- its resources must come primarily from public funding;
- any activities in which it competes against other private or public entities on the market must represent less than half of its activities.

Exceptionally, and where justified by the interest of the service, the Member of the Commission responsible for personnel matters may authorise the secondment of an SNE by an employer that does not meet one or more of the above criteria. The Commission Member shall regularly report to the Commission on the use of this procedure.

To this end, the Permanent Representation concerned and, where appropriate, the EFTA Secretariat, the IGOs and the diplomatic missions of the non-member countries concerned shall supply the Directorate-General for Personnel and Administration with all the necessary facts to enable the Director-General to assess whether the various criteria are satisfied and to take an informed decision.

The Directorate-General for Personnel and Administration shall, if necessary, clarify the arrangements for implementing the different criteria and communicate them to the Permanent Representations of the EU Member States, the EFTA Secretariat and the IGOs concerned, or a country associated with a Community programme by a Council decision.

3. Except where the Director-General for Personnel and Administration grants a derogation, an SNE must be a national of an EU or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the Commission on staff secondments.

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

The Directorate-General for Personnel and Administration shall monitor compliance and, in the event of a serious imbalance at Commission or Directorate-General (DG) level, shall take the necessary corrective measures to ensure balanced representation of SNEs.

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

Article 2 Cost-free seconded national experts

1. For the purposes of this Decision, “cost-free SNEs” means SNEs for whom the Commission does not pay any of the allowances provided for in Chapters III and VI or cover any of the expenses provided for in this Decision, other than those related to the performance of their duties during their secondment.
2. Cost-free SNEs may be seconded from the public administration, as defined in Article 1(1), of an EU or EFTA Member State or a country with which the Council has decided to open accession negotiations and which has concluded a specific agreement with the Commission on staff secondments, or from an IGO, as part of an agreement and/or exchange programme with the Commission.
3. In addition, the Director-General of Personnel and Administration may authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin, the DG in question, the geographical balance and the work to be carried out.
4. Cost-free SNEs shall be taken into account in the Commission's annual decision on the final allocation of human resources and decentralised administrative expenditure.

Article 3 Selection procedure

1. SNEs shall be selected according to an open and transparent procedure, the practical details of which shall be decided by the Directorate-General for Personnel and Administration.
2. Before the secondment, the Directorates-General must have been authorised to use SNEs under the APS/PDB procedure and the Commission's annual decision on the final allocation of human resources and decentralised administrative expenditure.
3. Applications shall be forwarded by the Permanent Representations and, where provided for in the vacancy notice, by the EFTA Secretariat, the diplomatic missions of the non-member countries whose nationals are eligible for the secondment and the administrations of the IGOs.
4. Notwithstanding the provisions of Articles 25 and 27, the secondment shall be authorised by the Director-General for Personnel and Administration and effected by an exchange of letters between that Director-General and the Permanent Representation of the Member State concerned or, as the case may be, the EFTA Secretariat, the diplomatic missions of the non-member countries whose nationals are eligible for the secondment and the IGOs.

Article 4 Period of secondment

1. The initial period of secondment may not be less than six months or more than two years. It may be renewed once or more, up to a total period not exceeding four years. Exceptionally, at the request of the DG concerned and where the interests of the service warrant it, the Director-General of Personnel and Administration may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period.

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

2. The initial duration of the secondment shall be specified in the exchange of letters referred to in Article 3(4). Any extension of the period of secondment shall be the subject of a new exchange of letters.

3. An SNE who has already been seconded to the Commission may be seconded to it another time subject to the internal rules governing the maximum length of time such persons may spend in the Commission departments, 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 the new secondment; if at the end of the previous secondment the SNE received an employment contract with the Commission, the duration of that contract or secondment shall be taken into account when calculating the six-year period referred to above.

The minimum period of six years referred to at b) shall not be required if the previous secondments 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 it by up to two more years, as provided for in paragraph 1.

Article 5 Place of secondment

SNEs may be seconded to any place of employment of Commission officials.

Article 6 Tasks

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

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

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

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

The Director-General may delegate his power to derogate within his DG.

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

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

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

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

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

The employer and the SNE shall also undertake to inform the Director-General of the department to which the SNE is seconded of any change of circumstances during the secondment which could give rise to any such conflict.

The department to which the SNE is seconded shall keep a copy of all such exchanges of correspondence in its records and shall hand it over to the Director-General of Personnel and Administration on request.

6. Where the DG to which an SNE is to be seconded considers that the nature of its activities requires particular security precautions, security clearance shall be obtained prior to recruitment. Where necessary, the DG concerned shall consult the Security Directorate.

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

Article 7 Rights and obligations

1. During the period of secondment:

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

b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside the Communities shall be subject to the Commission's rules on prior authorisation for officials¹. The department concerned shall consult the SNE's employer before issuing an authorisation.

¹ Article 12b of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

c) The SNE shall refrain from any action or behaviour which might reflect adversely upon his position and from any form of psychological or sexual harassment².

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

The SNE may neither keep nor acquire, either directly or indirectly, in undertakings which are subject to the authority of the Commission or which have dealings with the Commission, any interests of such kind or magnitude as might impair his independence in the performance of his duties.

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

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

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

The SNE who intends to publish or cause to be published, whether alone or with others, any text on a matter relating to the work of the Communities shall inform his Head of Unit in advance. Where the Head of Unit is able to demonstrate that the publication is liable seriously to prejudice the legitimate interests of the Communities, he shall inform the SNE of his decision in writing within 30 working days of receipt of the information. If no such decision is notified within the specified period, the Head of Unit shall be deemed to have had no objections.

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

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

i) Based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in the Commission 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 Commission, if it sees fit, to terminate the SNE's secondment pursuant to Article 10(2)(c).

3. At the end of the secondment the SNE shall continue to have a duty of loyalty to the Communities and be bound by the obligation to act with integrity and discretion in the exercise of new duties assigned to him and in accepting certain posts or advantages.

² Article 12a of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

Article 8
Professional experience and knowledge of languages

1. To qualify for secondment to the Commission a national expert must have at least three years' experience of administrative, legal, scientific, technical, advisory or supervisory functions which can be regarded as equivalent to those of function groups AD or AST – this latter function group being taken into consideration only for highly specialised job profiles – as defined in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.
2. The SNE must produce evidence of a thorough knowledge of one of the Community languages and a satisfactory knowledge of another Community language to the extent necessary for the performance of his duties. An SNE from a non-member country must produce evidence of a thorough knowledge of one Community language necessary for the performance of his duties.

Article 9
Suspension of secondment

1. At the written request of the SNE or his employer, and with the latter's agreement, the Commission may authorise suspensions of periods of secondment and specify the terms applicable. During such suspensions:
 - a) the subsistence allowances referred to in Article 17 shall not be payable;
 - b) the travel expenses referred to in Article 19 shall be payable only if the suspension is at the Commission's request.
2. The period of suspension shall not be counted in the period of secondment as defined in Article 4.

Article 10
Termination of periods of secondment

1. Subject to paragraph 2, the expert's secondment may be terminated at the request of the Commission or the SNE's employer, subject to three months' notice, or at the SNE's request, subject to the same period of notice and with the agreement of the Commission and the SNE's employer.
2. In exceptional circumstances the secondment may be terminated without notice:
 - a) by the SNE's employer, if the employer's essential interests so require;
 - b) by the Commission and the employer acting jointly, at the request of the SNE addressed to both parties, if the SNE's personal or professional interests so require;
 - c) by the Commission in the event of failure by the SNE or his employer to respect their obligations under this Decision; the Commission shall immediately inform the SNE and his employer accordingly.

Chapter II

Working conditions

Article 11 Social security

1. Before the period of secondment begins, the national public administration or IGO from which the SNE is to be seconded shall certify that he will remain, throughout the period of secondment, subject to the social security legislation applicable to the public administration that employs him and is responsible for expenses incurred abroad. To this end, the SNE's employer shall provide the Commission with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/72³.

For SNEs seconded to a Commission delegation in a non-member country, the national public administration or IGO from which the SNE is seconded shall provide sufficiently high ceilings for reimbursement to cover the medical expenses incurred in the country concerned and the cost of repatriation on health grounds, should this be necessary.

2. From the day on which their secondment begins, SNEs shall be covered by the Commission against the risk of accident. The Commission shall provide them with a copy of the terms of this cover on the day on which they report to the appropriate department of the Directorate-General for Personnel and Administration to complete the administrative formalities related to the secondment.

3. A SNE who cannot be covered by a public sickness insurance scheme may apply to have this risk insured by the Commission. The SNE shall pay half the relevant insurance premium and his contribution shall be deducted monthly from the subsistence allowances referred to in Article 17.

Article 12 Working hours

1. The working hours for SNEs shall be the same as those in force at the Commission⁴.

2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request originating from the DG concerned, the Director-General of Personnel and Administration may allow an SNE to work part time, provided the SNE's employer agrees and the arrangement is compatible with the smooth running of the department.

Article 13 Sick leave

1. The rules in force at the Commission on absence due to sickness or accident shall apply to SNEs⁵.

2. Where the period of sick leave exceeds three months or the length of time worked by the SNE, whichever is longer, the subsistence allowances referred to in Article 17 shall be automatically suspended.

³ OJ L 74, 27.3.1972, p. 1.

⁴ Articles 55, 56 and 56c of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

⁵ Articles 59 and 60 of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

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

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

Article 14 Annual and special leave

1. With the exception of the provisions relating to grade, the rules in force at the Commission on annual and special leave, applicable to officials, shall apply to SNEs⁶.

2. Leave shall be subject to prior authorisation by the department to which the SNE is seconded. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, subsistence allowances shall not be paid.

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

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

Article 15 Maternity leave

1. The rules in force at the Commission on maternity leave shall apply to SNEs⁷. While on maternity leave the SNE shall receive the subsistence allowances referred to in Article 17.

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

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

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

Article 16 Management and control

For SNEs seconded to locations other than Brussels or Luxembourg, day-to-day administrative and financial management, such as the calculation and payment of subsistence allowances and travel allowances, shall be the responsibility of the DG or service to which the SNE is assigned.

⁶ Articles 57 and 59a of and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

⁷ Article 58 of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

A copy of the administrative situation of these SNEs and of any modifications to it, as well as statistical information concerning them, shall be sent monthly to the responsible Unit of the Directorate-General for Personnel and Administration.

Chapter III

Allowances and expenses

Article 17 Subsistence allowances

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

On the date of entry into force of this Decision:

- the daily subsistence allowance for Brussels and Luxembourg shall be €119.39;
- the monthly subsistence allowance shall be paid in accordance with the following table:

Distance between place of origin and place of secondment (km)	Amount in €
0 – 150	0
> 150	80.50
> 300	143.12
> 500	232.59
> 800	375.71
> 1300	590.40
> 2000	706.72

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials⁸.

3. In the case of cost-free SNEs, the exchange of letters referred to in Article 3(4) shall stipulate that these allowances will not be paid.

4. The subsistence allowances for SNEs seconded to an EU Member State other than Belgium or Luxembourg shall be subject to the weighting set by the Council pursuant to Article 64 of the Staff Regulations.

5. The adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations shall apply automatically to the subsistence allowances in the month following their adoption. The Directorate-General for Personnel and Administration shall be responsible for implementing this provision and shall publish the new rate for subsistence allowances on the Commission's internet site.

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

⁸ Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis.

Before the secondment, the SNE's employer shall certify to the Directorate-General for Personnel and Administration that during the secondment it will maintain the level of remuneration the SNE was receiving at the time of his secondment.

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

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

8. When the SNE starts the secondment, the first 75 days of the subsistence allowances to which he is entitled shall be advanced in the form of a lump sum, and the allowances shall not be paid during the corresponding period. This lump sum shall be paid by the 25th day of the month for SNEs starting on the first day of the same month. For SNEs starting on the 16th day of the month, this lump sum shall be paid by the 10th day of the following month. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.

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

Article 18 Place of origin

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

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

Article 19 Travel expenses

1. An SNE, if not seconded on a cost-free basis, shall be entitled, for himself, to the reimbursement of the cost of his travel between his place of origin and the place of secondment, as defined in Article 18, at the beginning and end of his secondment.

2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the Commission⁹.

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

⁹ Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

4. The Commission shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the employer or any other body. The Permanent Representation concerned or, as the case may be, the EFTA Secretariat, IGOs or diplomatic missions of the non-member countries concerned shall inform the competent department of the Directorate-General for Personnel and Administration to this effect.

Article 20 Missions and mission expenses

1. SNEs may be sent on mission subject to Article 6.
2. Mission expenses shall be reimbursed in accordance with the relevant rules and conditions in force at the Commission¹⁰.

Article 21 Training

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

Article 22 Administrative provisions

1. SNEs shall report to the relevant department of the Directorate-General for Personnel and Administration on the first day of secondment to complete the requisite administrative formalities. They shall take up duty on either the first or the sixteenth day of the month.
2. SNEs seconded to places other than Brussels shall report to the appropriate department of the Commission in the place of secondment.

Chapter IV

Complaints

Article 23

Without prejudice to the possibilities for instituting proceedings after taking up his position, under the conditions and time limits laid down in Article 230 of the EC Treaty, any SNE may submit a complaint to the Unit of the Directorate-General for Personnel and Administration responsible for complaints and requests under the Staff Regulations about an act adopted by the Commission services under this Decision which adversely affects him, with the exception of decisions which are direct consequences of decisions taken by his employer.

¹⁰ Articles 11 and 12 of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

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 Director-General of Personnel and Administration 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

SNEs paid from research appropriations for direct actions

Article 24

This Decision shall also apply to SNEs whose allowances are paid from research appropriations for direct actions allocated to the Joint Research Centre.

Article 25

In the case of SNEs seconded to the Joint Research Centre, the powers devolved to the Director-General of Personnel and Administration pursuant to this Decision shall be exercised jointly by the Director-General of Personnel and Administration and the competent Director-General. The latter shall be authorised to delegate these powers to officials under his authority.

Chapter VI

SNEs seconded to Commission delegations

Article 26

This Decision shall apply to SNEs seconded to Commission delegations.

Article 27

In the case of SNEs seconded to Commission delegations, the powers devolved to the Director-General of Personnel and Administration pursuant to this Decision shall be exercised jointly by the Director-General of Personnel and Administration and the Director-General of External Relations. The latter shall be authorised to subdelegate these powers to officials acting under his authority.

Article 28

1. The subsistence allowances referred to in Article 17 shall be paid in euros in Belgium. They shall be subject to the weighting applicable to the remuneration of officials employed in Belgium.

2. By way of derogation from paragraph 1, the Director-General of External Relations may, at the SNE's request, authorise the payment of subsistence allowances in the currency of the place of secondment or, in exceptional and duly justified cases and in order to maintain purchasing power, in another currency. The allowances shall then be subject to the weighting provided for in Article 12 of Annex X to the Staff Regulations and converted at the corresponding exchange rate.

3. An allowance for living conditions, fixed according to the same criteria as those laid down in Article 10 of Annex X to the Staff Regulations, shall be paid to SNEs seconded to Commission delegations in a non-member country. The daily subsistence allowance referred to in Article 17(1) of these Rules shall constitute the reference amount referred to in Article 10 of Annex X to the Staff Regulations. The living conditions allowance shall be charged to the budget of the unified external service.

TITLE II

NATIONAL EXPERTS IN PROFESSIONAL TRAINING

Article 29

General provisions and definitions

1. National experts in professional training (hereinafter referred to as NEPTs) are staff from the public administrations of EU or EFTA Member States or, depending on the places available, of countries with which the Council has decided to open accession negotiations and which have concluded a specific agreement with the Commission on staff secondments, or from IGOs, who are admitted to Commission departments for professional training purposes.
2. The provisions of Article 1(1), (3), (4) and (5) shall apply by analogy to NEPTs.

Article 30

Purpose of the professional training

1. The purpose of the professional training is:
 - to give NEPTs experience of the Commission's working methods and policies;
 - to enable them to gain practical experience and understanding of the day-to-day work of the Commission departments and to give them the opportunity to work in a multicultural, multilingual environment;
 - to enable staff of national administrations to put into practice the knowledge they have acquired in their studies, particularly in their respective areas of responsibility.
2. For its part, the European Commission:
 - benefits from the input of people who can offer a new point of view and up-to date knowledge which will enrich the daily work of the institution;
 - builds up a network of people with direct experience of its procedures.

Article 31

Eligibility

1. The provisions of Article 8 on professional experience and knowledge of languages shall apply by analogy to NEPTs.
2. People who have already been seconded as an SNE or worked under an employment contract in one of the Community institutions or bodies shall not be eligible for traineeships.

Article 32
Selection of candidates

1. Applications shall be forwarded by the Permanent Representations or, as the case may be, the EFTA Secretariat, administrations of non-member countries or IGOs to the competent department of the Directorate-General for Personnel and Administration in accordance with the procedure and methods decided by that department.
2. After consulting the departments concerned and considering the situation, the competent department of the Directorate-General for Personnel and Administration shall decide how many NEPTs are to be admitted to the DGs and other services for each period.

Article 33
Duration of the professional training

1. The professional traineeships shall last between three and five months. The duration shall be fixed at the outset and may not be changed or extended. An NEPT may complete only one professional traineeship.
2. The professional traineeships are organised twice a year, usually starting on the 1st or 16th of the months of March and October.

Article 34
Organisation of the professional training

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

NEPTs must obey instructions given by their training advisor, their superiors in the DG or service to which they are seconded and the Directorate-General for Personnel and Administration.

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

Article 35
Suspension of the professional traineeship

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

Article 36 Special cases

Professional traineeships in Members' private offices shall be administered by the Directorate-General for Personnel and Administration. By way of derogation from Articles 32 and 33, the dates, duration and procedures shall be laid down according to the needs of each office. However, the duration of the professional traineeship may not exceed six months.

Exceptionally, the Director-General of Personnel and Administration may authorise the secondment of an NEPT by way of derogation from Articles 32 and 33, for example in the case of a specific agreement on staff secondments concluded by the Commission.

Article 37 Working conditions and remuneration

1. The following Articles shall apply by analogy to NEPTs:

- Article 6 on tasks;
- Article 7 on rights and obligations;
- Article 11(1) and (2) on social security;
- Article 12(1) on working hours;
- Article 13 on sick leave;
- Article 15 on annual leave and special leave;
- Article 20 on missions and mission expenses.

2. NEPTs shall be regarded as cost-free SNEs within the meaning of Article 2. They shall continue to be paid by their employer without any financial compensation being paid by the Commission. The Commission will accept no requests for grants or fees or the reimbursement of travel or other expenses other than the reimbursement of mission expenses incurred as part of the professional traineeship.

Article 38 Reports and certificate of attendance

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

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

TITLE III
FINAL PROVISIONS

Article 39
Delegation

1. The Director-General of Personnel and Administration may delegate the powers devolved to him pursuant to this Decision to one or more persons of his choice within the Directorate-General for Personnel and Administration.

2. The Permanent Representations, EFTA Secretariat, IGOs and diplomatic missions of the non-member countries concerned shall enjoy a close working relationship with DG ADMIN throughout the SNEs' secondment. All correspondence and contacts between the SNE's employer, particularly those referred to in this Decision, shall be made via the Member State's Permanent Representation, the EFTA Secretariat, the IGOs and the diplomatic missions of the non-member countries concerned.

Article 40
Entry into force

1. This Decision shall take effect on 1 January 2009.

The last sentence of the first subparagraph of Article 4(1) shall apply from 31 December 2008.

2. With effect from that date it shall apply to:

- SNEs and NEPTs taking up duty;
- SNEs who are currently on secondment, with the exception of Articles 17 and 19; if their secondment is extended and if they so request, Articles 17 and 19 shall apply in place of Articles 17 to 22 of the Commission Decision of 1 June 2006 laying down rules on the secondment of national experts to the Commission¹¹, subject to the provisions of paragraphs 3 and 4 below.

3. SNEs who are currently on secondment and who apply to benefit from the provisions of Article 17 shall not receive the monthly subsistence allowance referred to in paragraph 1 of that Article if, on their entry into service, they benefited from the provisions of Article 22 of the Commission Decision of 1 June 2006 laying down rules on the secondment of national experts to the Commission, referred to above. However, they shall benefit from the provisions of Article 22 of that Decision when they leave their position.

4. SNEs who are currently on secondment and who do not wish to benefit from the provisions of Articles 17 and 19 shall continue to benefit from the provisions of Articles 17 to 22 of the Commission Decision of 1 June 2006 laying down rules on the secondment of national experts to the Commission, referred to above.

¹¹ C(2006) 2033, 1.6. 2006.

5. Commission Decision of 1 June 2006 laying down rules on the secondment of national experts to the Commission, referred to above, is hereby repealed. However, the provisions of Articles 17 to 22 of that Decision shall continue to apply in the cases referred to in paragraphs 2 to 4.

6. The provisions of the Commission Decision of 28 April 2004 introducing implementing provisions on leave¹² relating to SNEs shall no longer apply.

Done at Brussels, 12.11.2008

For the Commission
Siim Kallas
Member of the Commission

¹² C(2004) 1597, 28.4.2004.