

Rules applicable to National Experts on the secondment to European Centre for Disease Prevention and Control ¹

THE DIRECTOR of the European Centre for Disease Prevention and Control, hereafter referred to as ECDC,

Having regard to Regulation EC 851/2004 of 21 April 2004 establishing a European Centre for Disease prevention and Control and in particular its Article 29.3

Whereas:

- (1) Seconded national experts (SNEs) should enable ECDC 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 and EEA/EFTA countries to ECDC, even for short periods. For the same reason, steps should also be taken to facilitate the use of experts drawn from the administrations of accession countries and public intergovernmental organisations (IGOs).
- (3) 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 Centre.
- (4) 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 Centre by virtue of the powers conferred upon it, unless specially empowered to do so in writing by the Director of ECDC.
- (5) 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.

HAS ADOPTED THIS DECISION:

¹ Any points not specifically covered by these rules, refer to Commission Decision laying out rules for National Experts on Secondment in force

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 European Centre for Disease Prevention and Control (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 European Centre for Disease Prevention and Control (hereinafter referred to as ECDC) 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 Director of ECDC 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 ECDC, without notice, in accordance with Article 10(2)(c).

2. Notwithstanding the second subparagraph of paragraph 1, the Director of ECDC 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 ECDC 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.

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 Director of ECDC with all the necessary facts to enable the Director of ECDC to assess whether the various criteria are satisfied and to take an informed decision.

The Director of ECDC 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 an accession country.

3. Except where the Director of ECDC grants a derogation, an SNE must be a national of an EU or EEA/EFTA Member State or an accession country.
4. When a secondment is being planned, ECDC 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 Director shall monitor compliance and, in the event of a serious imbalance at ECDC, 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 ECDC does not pay any of the allowances provided for in Chapters III 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 EEA/EFTA Member State or an accession country, or from an IGO.

3. In addition, the Director of ECDC may authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin, the geographical balance and the work to be carried out.

Article 3
Selection procedure

1. SNEs shall be selected according to an open and transparent procedure.
2. Applications shall be forwarded by the seconding organisation.
3. The secondment shall be authorised by the Director of ECDC and effected by an exchange of letters between the Director and the Permanent Representation of the Member State concerned or the employer, as the case may be. Correspondence shall be exchanged with 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 Head of Unit concerned and where the interests of the service warrant it, the Director of ECDC may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period.
2. The initial duration of the secondment shall be specified in the exchange of letters referred to in Article 3(3). 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 ECDC may be seconded to it another time subject to the internal rules governing the maximum length of time such persons may spend at ECDC, 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 ECDC, 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

The place of secondment shall be Stockholm, where ECDC has its seat.

Article 6
Tasks

1. SNEs shall assist ECDC 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 ECDC 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 of ECDC 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 of ECDC shall give the SNE clear and specific written instructions on the position to be adopted during the missions or meetings in question.

The Director of ECDC may delegate his power to Heads of Unit to derogate within their respective units.

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

An SNE may, however, represent ECDC in legal proceedings as co-agent with ECDC staff member.

4. ECDC 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 units 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 ECDC.

For this purpose, the unit 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 Head of the unit to which the SNE is seconded of any change of circumstances during the secondment which could give rise to any such conflict.

The unit 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 ADMIN Unit.

6. Where the unit 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 unit concerned shall consult ADMIN Unit.
7. Failure on the part of the SNE to comply with his obligations arising from paragraphs 2, 3 or 5 shall entitle ECDC, 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 ECDC in mind. He shall neither seek nor take instructions from any government, authority, organisation or person outside ECDC. He shall carry out the duties assigned to him objectively, impartially and in keeping with his duties of loyalty to the Centre.
 - b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside ECDC shall be subject to the ECDC rules in force².
 - 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 harassment³.
 - 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 ECDC or which have dealings with ECDC, 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.

² ECDC Implementing rule to the Staff Regulations No 17 on outside activities and assignments.

³ Article 12a of the Staff Regulations and the provisions implementing this Article shall apply mutatis mutandis

- 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 ECDC shall be subject to the ECDC rules in force⁴.

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

Article 8

Professional experience and knowledge of languages

1. To qualify for secondment to ECDC 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

⁴ ECDC Internal procedure on Approval of Publications with ECDC Authorship, ECDC/HCU/001 of 11.06.2007.

1. At the written request of the SNE or his employer, and with the latter's agreement, ECDC may authorise suspensions of periods of secondment and specify the terms applicable. During such suspensions:
 - a) the subsistence allowances referred to in Article 16 shall not be payable;
 - b) the travel expenses referred to in Article 18 shall be payable only if the suspension is at ECDC'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 ECDC 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 ECDC 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 ECDC 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 ECDC in the event of failure by the SNE or his employer to respect their obligations under this Decision; ECDC 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 ECDC with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/72⁵.

2. From the day on which their secondment begins, SNEs shall be covered by ECDC against the risk of accident. ECDC shall provide them with a copy of the terms of this cover on the day on which they report to Human Resources to complete the administrative formalities related to the secondment.

Article 12
Working hours

1. The working hours for SNEs shall be the same as those in force at ECDC⁶.
2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request originating from the unit concerned, the Director of ECDC 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. In this case the amount of annual leave will be reduced proportionally.
3. Where part-time working is authorised, the SNE shall work every month at least half of the normal working time.

Article 13
Sick leave

1. The rules in force at ECDC on absence due to sickness or accident shall apply to SNEs⁷.
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 16 shall be automatically suspended.

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

⁵ OJ L 74, 27.3.1972, p. 1.

⁶ Internal Procedure on working hours ECDC/ADM/021 of 10.12.2007.

⁷ ECDC Implementing rule to the Staff Regulations No 16.

1. With the exception of the provisions relating to grade, the rules in force at ECDC on annual and special leave, applicable to ECDC staff, shall apply to SNEs⁸.
2. Leave shall be subject to prior authorisation by the unit 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 ECDC 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 ECDC on maternity leave shall apply to SNEs⁹. While on maternity leave the SNE shall receive the subsistence allowances referred to in Article 16.
2. Where the rules that are binding upon the SNE's employer provide for a period of maternity leave longer than that granted by ECDC, the secondment may, at the SNE's request, be interrupted for the period by which that leave exceeds the leave granted by ECDC.

A period equivalent to the break may be added to the end of the secondment if the interests of ECDC 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.

Chapter III

Allowances and expenses

Article 16
Subsistence allowances

⁸ ECDC Implementing rule to the Staff Regulations No 16

⁹ ECDC Implementing rule to the Staff Regulations No 16

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 shall be € 122,97 (Brussels base) x weighting factor 115,3% = € 141,78.
- 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 € (Brussels base)	Amount in € for ECDC (Brussels base weighted with Swedish weighting factor, currently 115,3%)
0 – 150	0	0
> 150	79,04	91,13
> 300	140,52	162,02
> 500	228,36	263,30
> 800	368,89	425,33
> 1300	579,68	668,37
> 2000	693,88	800,04

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials¹⁰.
3. In the case of cost-free SNEs, the exchange of letters referred to in Article 3(3) shall stipulate that these allowances will not be paid.
4. The subsistence allowances for SNEs shall be weighted (by a weighting factor) at the rate adopted every year by the Council for the remuneration of the officials of the Communities for Sweden (currently 115,3%).
5. The subsistence allowances shall be paid to SNEs in their Swedish bank accounts and in SEK. To the subsistence allowances the annual exchange rate defined by the European Commission for SEK shall be applied, by analogy of the exchange rate applied for the payment of salaries of ECDC staff.

¹⁰ Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*

6. 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. ADMIN Unit at ECDC shall be responsible for implementing this provision.
7. 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 ECDC.

Before the secondment, the SNE's employer shall certify the Director of ECDC 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 Human Resources at ECDC of any allowance similar to the subsistence allowances paid by ECDC received from other sources. This amount shall be deducted from the subsistence allowances paid by ECDC. Following a duly justified request from the employer, ECDC may decide not to make this deduction.

8. Subsistence allowances shall be payable for every day of the week, including during periods of mission, annual leave, special leave and holidays granted by ECDC.
9. 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. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.
10. Subsistence allowances shall be paid no later than the 25th day of each month.

Article 17
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 Stockholm, where ECDC has its seat. Both places shall be identified in the exchange of letters referred to in Article 3(3).
2. If, six months before his secondment to ECDC 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 18
Travel expenses

1. SNEs other than those seconded cost-free, shall be entitled to reimbursement of the cost of their travel between their place of origin and the place of secondment, as defined in Article 17, at the beginning and end of their secondment.
1. Travel expenses for the SNE shall be reimbursed in accordance with the relevant rules and conditions in force at ECDC¹¹. No travel expenses shall be reimbursed for SNE's family members.
2. 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.
3. ECDC 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 19
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 ECDC.

Article 20
Training

SNEs shall be entitled to attend training courses organised by ECDC if the interests of the Centre 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 21
Administrative provisions

SNEs shall report to ADMIN Unit at ECDC, on the first day of secondment to complete the requisite administrative formalities. They shall take up duty on the first day of the month.

¹¹ Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

Chapter IV

Complaints

Article 22

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 Director of ECDC about an act adopted by ECDC services under this Decision which adversely affects him, with the exception of 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 Director of ECDC 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

TITLE II

FINAL PROVISIONS

Article 23

Entry into force

1. This Decision shall take effect on 1st June 2009.
2. With effect from that date it shall apply to:
 - SNEs taking up duty;
 - SNEs who are currently on secondment, with the exception of Articles 16 and 18; if their secondment is extended and if they so request, Articles 16 and 18 shall apply in place of Articles 11 to 15 of the Director's Decision of 30 April 2005 laying down rules on the secondment of national experts to ECDC, 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 16 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 15 of the Director's Decision of 30 April 2005 laying down rules on the secondment of national experts to ECDC, referred to above. However, they shall benefit from the provisions of Article 15 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 16 and 18 shall continue to benefit from the provisions of 11 to 15 of the Director's Decision of 30 April 2005 laying down rules on the secondment of national experts to ECDC, referred to above.
5. Director's Decision of 30 April 2005 laying down rules on the secondment of national experts to ECDC, referred to above, is hereby repealed. However, the provisions of Articles 11 to 15 of that Decision shall continue to apply in the cases referred to in paragraphs 2 to 4.

Done at Stockholm, 14th May 2009



Zsuzsanna Jakab
Director of ECDC