

College Decision 2013-6
on implementing arrangements for the secondment to Eurojust of national experts

The College of Eurojust,

Having regard to Council Decision 2002/187/JHA of 28 February 2002 setting up Eurojust with a view to reinforcing the fight against serious crime as last amended by Council Decision 2009/426/JHA of 16 December 2008 on the strengthening of Eurojust (hereinafter referred to as the "Eurojust Decision"), and in particular Articles 2(2)(b) and 30(2) thereof,

Having regard to the Rules of Procedure of Eurojust 2002/C286/01 of 13 June 2002, and in particular Article 25,

Having regard to the Commission decision of 12 November 2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training (hereinafter referred to as the "Commission decision"),

On the proposal of the Administrative Director and after consultation with the Staff Committee of Eurojust,

Whereas:

- (a) Seconded national experts (hereinafter referred to as "SNEs") should allow Eurojust to benefit from their high level of knowledge and professional experience. With this aim in view, this Decision should foster the exchange of professional experience and knowledge between the Member States and Eurojust in common areas of interest by temporarily assigning experts from Member States' public administrations to Eurojust; and
- (b) The rights and obligations of SNEs set out in this Decision should ensure that they carry out their duties in the interest of Eurojust. This Decision should set out all the conditions of employment of SNEs. In the case of working conditions and the granting of subsistence allowances, while preserving their specific features, it is desirable to bring them as much as possible into line with the Staff Regulations of Officials and the Conditions of Employment of other Servants of the European Union as amended (hereinafter referred to as the "Staff Regulations"), but without incorporating SNEs into these categories;



HAS DECIDED AS FOLLOWS:

Title I

General Provisions

Article 1-Definitions

For the purposes of this Decision:

- “public administration” means all public services of the Member States of the European Union at central, federal and regional level, including government, prosecution parliamentary and judicial services, the national courts, central banks, as well as the decentralised administrative services of the State and of such authorities; and
- “SNE” means staff as referred to in Article 30(2) of the Eurojust decision employed by a public administration that are seconded to Eurojust so that it can use their expertise in a particular field.
- “cost-free SNE” means an SNE for whom Eurojust does not pay any allowances or expenses provided for in this Decision, other than those related to the performance of their duties during their secondment.
- “supervisor” means a National Member for an SNE working at a National Desk of the College, the Administrative Director for an SNE directly reporting to the Administrative Director or the Head of Unit or Service for an SNE working in the respective Unit or Service.

Article 2 – Scope

1. These rules are applicable to SNEs seconded to Eurojust by the public administrations of the Member States.
2. These rules do not apply to officials of the European Union institutions seconded to Eurojust, as provided for by Article 30(2) of the Eurojust Decision.

Article 3 - General principles

1. Eurojust shall recruit SNEs in accordance with requirements and prior to internal budgetary authorisation by the Appointing Authority.
2. SNEs shall be recruited on as wide a geographical basis as possible from among the nationals of the Member States. The Member States and Eurojust shall cooperate to ensure, as far as possible, a balance between men and women and observe the principles of equal opportunity.
3. The persons covered by these rules shall remain in the service of their employer throughout the period of secondment and shall continue to be paid by that employer. The SNEs’ employer shall undertake to continue to pay his¹ salary, to maintain his administrative status throughout the period of secondment and to inform the Human

¹ Any references to persons of masculine gender including ‘he’, ‘him’ or ‘his’ in this Decision shall be construed as being applicable to persons of both male and female gender.

Resources Unit of Eurojust in this regard. The SNE's employer shall also continue to be responsible for all social rights of the SNE, particularly social security and pension rights.

4. Without prejudice to Articles 8(2) and (3), the termination of or change in the SNE's administrative status may lead to the termination of his secondment by Eurojust, either with or in exceptional circumstances, without notice in accordance with Article 11 of this Decision.

Article 4 - Selection criteria

To qualify for secondment to Eurojust, a candidate must comply with the following conditions:

- a. be a national of one of the Member States of the European Union,
- b. have a thorough knowledge of one European Union language and a satisfactory knowledge of a second language to the extent necessary for the performance of his duties, and
- c. have at least three years' full-time experience of administrative, judicial, legal, scientific, technical, advisory or supervisory functions. The candidate must have worked for his employer on a permanent or contract basis for at least 12 months before secondment. Before secondment, the candidate's employer shall supply Eurojust with a statement of the expert's employment covering the previous 12 months.

Article 5 - Selection procedure

1. SNEs working in the Administration shall be selected according to an open and transparent procedure. A public call for applications shall be posted on the Eurojust website. Applications shall be forwarded by the competent authorities of the Member States. The selection procedure carried out by Eurojust provided for in the Eurojust Decision on the use and engagement of contract agents² shall apply *mutatis mutandis*.
2. For SNEs working at national desks, their nomination shall be decided upon by their respective national authorities and the selection procedure referred to in Article 5(1) shall not apply.
3. The secondment shall be authorised by the Appointing Authority and, where appropriate, with the consent of the respective National Member.
4. The secondment shall be effected by an exchange of letters between Eurojust and the competent authorities of the Member State concerned. The place of origin and the place of secondment, its initial duration, the duties and responsibilities in line with the call for applications and the allowances and expenses regime must be indicated in the exchange of letters. A copy of the rules applicable to SNEs on secondment to Eurojust shall be attached to the exchange of letters.

² Decision of Eurojust on general implementing provisions on the procedures governing the engagement and use of contract agents at Eurojust of 15 October 2008 (Article 6(2)).

Article 6 - Period of secondment

1. The initial period of secondment should not be less than twelve months if possible; shall not be less than six months or exceed two years and may be renewed successively up to a total period not exceeding four years. Exceptionally, at the request of his supervisor and where the interests of Eurojust so warrant, the Appointing Authority, may authorise one or more extensions of six months of the secondment for a maximum of two additional years at the end of the four-year period.
2. Any extension of the period of secondment shall be the subject of a new exchange of letters between Eurojust and the competent authorities of the Member State concerned.

Article 7 - Duties

1. An SNE shall assist his supervisor and carry out the tasks assigned to him, bearing in mind the objectives and mandate of Eurojust. These duties shall be defined by mutual agreement between Eurojust and the public administration that seconds the national expert in the interest of the National Desk/Unit/Service and taking into account his qualifications. SNEs may not perform middle³ or senior management duties.
2. Unless a special mandate has been granted by the supervisor of the SNE, the SNE may not undertake commitments on behalf of Eurojust.
3. Management and control of the SNE's performance, as well as absence and leave, shall be the responsibility of the SNE's supervisor.
4. Eurojust, the SNE's employer and the SNE shall make every effort to avoid any conflict of interest or appearance of such a conflict in relation to the SNE's duties during secondment. To that end, Eurojust shall, in good time, inform the SNE and the employer of the intended duties and shall ask each of them to confirm in writing that they know of no reason why the SNE should not be assigned to those duties. The SNE shall be asked in particular to declare any potential conflict between his family circumstances (in particular the professional activities of close family members or any of his own important financial interest or those of close family members) and the proposed duties while on secondment. The employer and the SNE shall undertake to notify Eurojust of any change of circumstances during the secondment which could give rise to such conflict.
5. Where Eurojust considers that the nature of the tasks entrusted to the SNE requires particular security precautions, security clearance shall be obtained in accordance with Section VI(1) of the Eurojust Security Rules⁴ and with the implementing rules thereof.⁵
6. In the event of failure to comply with the provisions of paragraphs 1, 2, 4 and 5 Eurojust may terminate the secondment of the SNE under the terms of Article 11(2)(c) of this Decision.
7. The SNE's supervisor may entrust the SNE with specific duties and charge him with the conduct of one or more specific missions after having verified that there is no conflict of

³ Within the meaning of 'middle management' referred to in the Draft Decision of Eurojust on middle management.

⁴ College Decision 2007-10 adopting the Security Rules of Eurojust of 28 June 2007 as amended by College Decision 2008-6 of 17 April 2008.

⁵ Decision of Eurojust about Rules on Security Clearance of Personnel dated 18 June 2009.

interest and in accordance with the provisions in force at Eurojust concerning mission expenses for the staff.

Article 8 - SNE at a national desk

1. An SNE supporting a national desk may perform a range of tasks to be specified in a job description to be agreed in the exchange of letters referred to in Article 5(4) of this Decision.
2. If an SNE at a national desk is notified as an Assistant to a National Member, Eurojust shall terminate the secondment of that SNE pursuant to a decision of the College of Eurojust to that effect during its plenary meeting of 16 April 2013.

Article 9 - Rights and obligations

1. During the period of secondment:
 - (a) an SNE shall carry out his duties objectively and impartially and shall behave solely with the interest of Eurojust in mind. He shall refrain from any action or behaviour which might reflect adversely on his position or Eurojust;
 - (b) without prejudice to Article 9(1)(a), an SNE has the right to freedom of expression, with due regard for the principles of loyalty and impartiality. All rights in any work done by an SNE in the performance of his duties shall be the property of Eurojust;
 - (c) any SNE who, in the performance of his duties, is called upon to give a decision on the handling or outcome of a matter in which, directly or indirectly, he or she has a personal interest that could impair his independence, shall inform his supervisor, who will take any appropriate measure and may, in particular, release the SNE of responsibility in this matter;
 - (d) an SNE shall reside at the place of secondment or at no greater distance therefrom than is compatible with the proper performance of his activities;
 - (e) an SNE shall assist and tender advice to the supervisor to whom he is assigned and shall be responsible to his supervisor for the performance of the duties entrusted to him; and
 - (f) an SNE shall, in the exercise of his duties, neither accept instructions from nor undertake any activities for his employer or national government. An SNE shall not undertake any activities for any other person, private company or public body.
2. Both during and after the period of secondment, an SNE shall exercise the greatest discretion with regard to all facts and information of which he becomes aware in the course of or in connection with the performance of his duties. He shall not in any form whatsoever disclose to any unauthorised person any document or information not already lawfully made public, nor shall he use such document or information for personal gain.
3. At the end of the secondment and for a period of two years following the period of secondment, an SNE shall continue to 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.
4. SNEs shall be subject to the security rules in force in Eurojust.

5. Failure to comply with the provisions of paragraphs 1, 2 and 4 during the period of secondment shall entitle Eurojust to terminate the secondment of an SNE under the terms of Article 11(2)(c) of this Decision.

Article 10 - Suspension of secondment

1. At the written request of the SNE, his supervisor or employer, and with the employer's agreement, Eurojust may authorise suspensions of secondment and specify the terms applicable. During such suspensions:
 - (a) the allowances referred to in Article 17 shall not be payable; and
 - (b) the travel expenses referred to in Articles 20 and 21 shall be payable only if the suspension is at Eurojust's request.
2. The period of suspension shall not be counted in the period of secondment as defined in Article 6. After having authorised the suspension, Eurojust shall inform the SNE's employer.

Article 11 - Termination of periods of secondment

1. Subject to paragraph 2, secondment may be terminated at the request of Eurojust or of the SNE's employer, provided three months' notice is given. Secondment may also be terminated at the SNE's request, provided the same notice is given and subject to Eurojust's agreement.
2. In certain 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 agreement between Eurojust and the employer acting jointly, at the request of the SNE to both parties, if the SNE's essential personal or professional interests so require; or
 - (c) by Eurojust in the event of failure by the SNE or his employer to comply with any of their obligations under these rules including those referred to in Article 8(2). In the event of termination of the secondment due to failure by the SNE to comply with his obligations under these rules, he shall first be given an opportunity to be heard and submit his defence.
3. In the event of termination under paragraph 2(c), Eurojust shall immediately inform the SNE and his employer accordingly.

Title II

Working conditions

Article 12 - Social security

1. Before the period of secondment begins, the employer from which the national expert is to be seconded shall certify in writing to Eurojust that, throughout the period of secondment, the SNE will remain subject to the social security legislation applicable to

the public administration that employs the SNE and that will assume responsibility for expenses incurred abroad in case of sickness or accident.

2. Eurojust will provide complementary insurance in the context of a mission in which the SNE is participating under the terms of Articles 7(7) and 21, or when, as a result of specific risks at the place of secondment, additional or specific insurance is required.

Article 13 - Working hours

1. An SNE shall be subject to the Eurojust Decision on the Working Hours, Flexitime and Overtime⁶. For the application of Article 11 of the said Eurojust Decision, an SNE shall be treated as a staff member in function group administrator (AD).
2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request from his supervisor, and subject to compatibility with the interests of Eurojust, the Appointing Authority may authorise an SNE to work part-time, after agreement from his employer.
3. In case of part-time work, entitlement to allowances and annual leave shall be reduced proportionately.

Article 14 - Absence for reason of sickness or accident

The rules in force at Eurojust on absence due to sickness or accident shall apply to SNEs.

Article 15 - Annual leave, special leave and holidays

1. An SNE shall be entitled to two and one-half working days of leave per whole month of service (30 days per calendar year).
2. An SNE may, on reasoned application, be granted special leave in accordance with the relevant provisions of the Commission decision of 5 November 2010 on implementing provisions on leave⁷. Upon a duly justified request from the SNE's employer, additional special leave of two days per period of twelve months to visit the SNE's employer may be granted. Days of annual leave not taken by the end of the period of secondment shall be forfeited.
3. Except in case of sickness or accident, an SNE may not be absent without prior permission from his supervisor. Any unauthorised absence that is duly established shall be deducted from the annual leave of the SNE concerned. If he or she has used up his annual leave, subsistence allowances shall not be paid.

Article 16 - Maternity leave

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

⁶ Decision AD 2011-27 on the Working Hours, Flexitime and Overtime adopted on 7 December 2011.

⁷ C(2010) 7495 final.

2. Where the national legislation of the SNE's employer grants a longer period of maternity leave than that granted by Eurojust, the secondment may, at the request of the SNE, be suspended for the period of time exceeding that granted by Eurojust. In that case, a period equivalent to the period of the suspension may be added to the end of the period of secondment if the interests of Eurojust so warrant.
3. An SNE may, alternatively, apply for a suspension of the secondment to cover the sum of the periods allowed for maternity leave. In that case, a period equivalent to the period of the suspension may be added to the end of the secondment if the interests of Eurojust so warrant.

Title III Allowances and Expenses

Article 17 - Allowances and expenses

1. Without prejudice to Article 18, the allowances and expenses to which an SNE shall be entitled shall be stipulated in the exchange of letters referred to in Article 5(4) between Eurojust and the competent authorities of the Member State concerned. It may also be decided by the aforementioned instances that no allowance shall be paid by Eurojust.
2. Unless otherwise provided in the exchange of letters mentioned in paragraph 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 € 127,65;
 - 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	82,05
> 300	145,86
> 500	237,05
> 800	382,92
> 1300	601,73
> 2000	720,27

3. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for temporary agents employed by Eurojust.
4. The subsistence allowance shall be subject to the weighting factor 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 Human Resources Unit shall be responsible for

- implementing this provision and shall publish the new rate for subsistence allowances on Eurojust's intranet.
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 Eurojust.
 7. Before the secondment, the SNE's employer shall certify by letter to the Head of the Human Resources Unit of Eurojust that during the secondment the employer will maintain the level of remuneration that the SNE was receiving at the time of his secondment.
 8. The SNE shall inform the Human Resources Unit of Eurojust of any allowance similar to the subsistence allowances paid by Eurojust received by the SNE and paid from other sources. Any such amounts shall be deducted from the subsistence allowances paid by Eurojust. Following a duly justified request from the employer, Eurojust may decide not to make this deduction.
 9. Subsistence allowances shall be payable for every day of the month, including weekends, periods of mission, annual leave, special leave and holidays granted by Eurojust.
 10. When the SNE starts the secondment, the first 75 days of the subsistence allowances to which he or she is entitled shall be advanced in the form of a lump sum, and no other allowances shall be paid during the corresponding period. This lump sum shall be paid by the 25th day of the month in which the SNE starts his secondment. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.
 11. Allowances shall be paid no later than the 25th day of each month.

Article 18 – Cost-free seconded national experts

The Administrative Director may authorise the secondment of cost-free SNEs from public administrations on a case by case basis, taking into consideration their place of origin, the unit, service or national desk in question, the geographical balance and the work to be carried out.

Article 19 - Places of secondment and origin

For purposes of these rules:

- the place of secondment shall be the place where the Eurojust premises to which the SNE is assigned are located; and
- the place of origin shall be the place where the SNE performed his duties for his employer at the time of his secondment. Both places shall be identified in the exchange of letters referred to in Article 5(4).

Article 20 - Travel expenses

1. Unless otherwise provided in the exchange of letters referred to in Article 5(4), an SNE, whose place of origin is more than 150km from the place of secondment, as both are

defined in Article 19, shall be entitled to reimbursement of the cost of the travel between these two places both at the beginning and end of his secondment:

- (a) for himself;
 - (b) for his spouse and dependent children, provided that they live with the SNE during the time of the secondment.
2. Travel expenses shall be reimbursed in accordance with Article 7(2) of Annex VII to the Staff Regulations.
3. By way of derogation from Article 20(1), an SNE who proves that he will be assigned to a destination other than his place of origin shall be entitled, for himself and the persons referred to in Article 20(1)(b), to reimbursement of travel expenses to that new destination under the conditions laid down in Article 20(2). However, any such reimbursement shall not be more than the amount that would have been paid had the SNE returned to his place of origin.
4. Eurojust shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the SNE's employer or any other body.

Article 21 - Missions and mission expenses

1. An SNE may be sent on mission subject to Article 7.
2. Mission expenses shall be reimbursed in accordance with the provisions in force at Eurojust.

Article 22 – Training

An SNE shall be entitled to attend training courses organised by Eurojust, if in the interests of Eurojust. The reasonable interests of the SNE, having regard in particular to his professional career after the secondment, may be considered when a decision on permission to attend courses is taken.

Article 23 - Administrative provisions

1. The SNE shall report to the Human Resources Unit of Eurojust on the first day of secondment to complete the required administrative formalities. Unless another commencement date is required in the interests of the service, the SNE shall take up his duties on the first or sixteenth day of the month.
2. Payment shall be made by Eurojust, in euros, into a bank account opened at the place of secondment.

Title IV

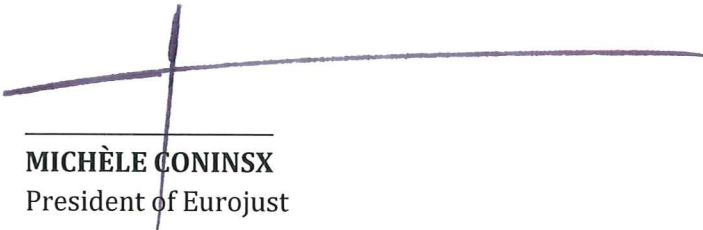
Final Provisions

Article 24 – Entry into force

1. This Decision shall enter into force on the date following its adoption and shall apply to each new secondment or extension of existing secondment on or after that date of adoption.
2. College Decision 2009-13 on the provisional Implementing Arrangements on the Secondment of National Experts to Eurojust of 12 May 2009 shall only remain applicable to all secondments (including extension of secondments) that were agreed upon by the exchange of letters between Eurojust and the competent authorities of the Member State concerned referred to in Article 5(4), concluded before the date of adoption of this Decision.

Done at The Hague on 8 October 2013

On behalf of the College of Eurojust,



MICHÈLE CONINSX
President of Eurojust