



## COLLEGE DECISION 2023-11

of 10 October 2023

### laying down rules on the secondment of national experts to Eurojust

THE COLLEGE OF EUROJUST,

Having regard to (EU) 2018/1727 of the European Parliament and of the Council of 14 November 2018 on the European Union Agency for Criminal Justice Cooperation (Eurojust) and replacing and repealing Council Decision 2002/187/JHA (hereinafter referred to as ‘the Eurojust Regulation’)<sup>1</sup>, as amended by Regulation (EU) 2022/838<sup>2</sup> and in particular Article 66 thereof,

Having regard to the Staff Regulations of Officials of the European Union (hereinafter referred to as the ‘Staff Regulations’) and the Conditions of Employment of Other Servants of the European Union (hereinafter referred to as the ‘CEOS’) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968<sup>3</sup>,

Having regard to College Decision 2019-09 of 17 September 2019 on the Financial Regulation applicable to Eurojust and in particular Article 96 thereof,

Having regard to Commission Decision C(2008) 6866 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’),

Whereas:

- (a) The engagement of seconded national experts (hereinafter referred to as “SNE”s) should allow Eurojust to benefit from the high level of professional knowledge and experience of those experts, particularly in areas where such expertise is not readily available.
- (b) It is highly desirable to foster the exchange of professional experience in and knowledge of common areas of interest by temporarily assigning experts from the Member States to Eurojust.
- (c) In order to ensure that Eurojust’s independence is not compromised by private interests, SNEs should come from a national, regional or local public administration or an inter-governmental organisation (IGO). The secondment of an SNE by any other employer may be authorised on a case-by-case basis, once it has been ascertained that the SNE’s employer is part of the public sector, is an independent university or research organisation, or that there is no conflict of interest.
- (d) To avoid any conflict of interest, the rights and obligations of SNEs, as set out in this Decision, should ensure that they carry out their duties in the interest of Eurojust.
- (e) Steps should be taken to make it easier for Eurojust to respond to future needs.

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<sup>1</sup> OJ L 295, 21.11.2018, p. 138.

<sup>2</sup> OJ L 148, 31.05.2022, p. 1-5

<sup>3</sup> OJ L 56, 4 March 1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29 October 2013, p. 15.

- (f) To enable Eurojust to continue to attract such expertise from the Member States, it is considered desirable to cover the school fees of the European School of The Hague (hereinafter referred to as 'ESH') incurred by SNEs seconded to Eurojust for a minimum continuous period of six months.
- (g) It is desirable to update and consolidate the rules applicable to SNEs in a single text.

HAS DECIDED AS FOLLOWS:

### **Article 1 – Scope**

1. This Decision is applicable to national experts seconded to Eurojust ("SNE"s). It does not apply to officials of the European Union institutions seconded to Eurojust, as provided for by Article 37 of the Staff Regulations.
2. Eurojust may make use of SNEs who are:
  - a. employed by a national, regional or local public administration. 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.
  - b. employed by an IGO, with the exception of Union bodies within the meaning of Article 1a(2) of the Staff Regulations, seconded to Eurojust in cases where a transfer of specific knowledge or expertise is required.
3. Notwithstanding paragraph 2, Eurojust may, on a case-by-case basis, authorise the secondment of an SNE from an employer other than a Member State public administration or an IGO if the interests of Eurojust warrant bringing in specific expertise, provided that the SNE's employer:
  - a. is an independent university or research organisation which does not set out to make profits for redistribution; or
  - b. is part of the public sector<sup>4</sup>.
4. Decisions on secondments to Eurojust and any decisions in implementation of these rules shall be taken by the Administrative Director.
5. The experts covered by this Decision shall remain in the service of their employer throughout the period of secondment. The SNE's employer shall thus undertake to continue to pay the SNE's salary, to maintain his/her administrative status throughout the period of secondment and to inform Eurojust of any change in this regard. The SNE's employer shall also continue to be responsible for all social rights, particularly social security and pension. The termination of or change in the SNE's administrative status may lead to the termination of the secondment by Eurojust, without notice, in accordance with Article 10.
6. An SNE must be a national of an EU Member State. Exceptionally, the Administrative Director may grant, by reasoned decision, a derogation to this nationality requirement to allow the

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<sup>4</sup> For the purpose of this Decision, an organisation is part of the public sector where it meets all of the following criteria: i) it must be attached to a public administration, as defined in paragraph 1, and it must have been created by legislation or regulation; ii) its resources must come primarily from public funding; and iii) any activities in which it competes against other private or public entities on the market must represent less than half of its activities.



secondment of an SNE from a third State with which Eurojust has concluded a cooperation agreement. Eurojust shall take account of geographical and gender balance and the principle of equal opportunities when accepting SNEs.

### **Article 2 – Cost free SNEs**

1. For the purposes of this Decision, “cost-free SNEs” are SNEs to whom Eurojust does not pay the allowances and expenses in Articles 17 and 18 of this Decision.
2. The Administrative Director may authorise the secondment of cost-free SNEs on a case-by-case basis, taking into consideration their place of origin and place of employment, their organisational assignment within Eurojust and the work to be carried out.

### **Article 3 – Allocation of SNEs**

1. SNEs may be engaged to support a National Desk or any administrative organisational entity within Eurojust.
2. When allocating SNEs, priority shall be given to operational needs.
3. Subject to budgetary availability, the College shall determine how SNEs are distributed among National Desks. Within the administration, the Administrative Director shall be responsible for the assignment of SNEs.

### **Article 4 – Selection procedure**

1. SNEs assigned to National Desks shall, in general, be nominated by the respective national authorities and seconded based on a written agreement between the Administrative Director, on behalf of Eurojust, and the national authority. However, this shall not exclude the possibility for National Desks to make use of SNEs selected through the selection procedures mentioned in paragraph 2.
2. SNEs assigned to other organisational units of Eurojust shall be selected according to an open and transparent procedure, the practical details of which shall be published on Eurojust’s website.
3. To qualify for secondment to Eurojust, an SNE must have a sufficient knowledge of English, as English is the working language of Eurojust and SNEs will carry out their work in a mainly English-speaking environment.

### **Article 5 – Period of secondment**

1. The initial period of secondment may not be less than three months or more than three years.
2. Exceptionally, where the interests of Eurojust so warrant, Eurojust may authorise one or more extensions of the secondment, up to a maximum total period of secondment of six years.
3. An SNE who has previously been seconded to Eurojust may be seconded again, subject to the following conditions:

- a. the expert continues to meet the conditions for secondment in Article 1;
- b. a period of at least three years has elapsed since the end of the previous period of secondment, including any renewal and extensions, or any subsequent employment contract with Eurojust.

The minimum period of three years referred to in subparagraph b) shall not be required if the previous secondments lasted for less than three years, but in that case the new secondment shall not exceed the remaining part of the three-year period.

4. Unless another commencement date is required in the interests of the service, SNEs shall take up duties on the first or sixteenth day of the month.

### **Article 6 - Place of secondment**

1. The place of secondment shall be the place where Eurojust has its seat.
2. The SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his/her activities.
3. In special circumstances and in the interest of the service, Eurojust may decide to second an SNE to another specified location where Eurojust is represented.

### **Article 7 - Tasks**

1. SNEs shall assist Eurojust staff or members of the National Desks, performing tasks assigned to them. The tasks assigned to an SNE may include, inter alia, providing support to casework, facilitating information exchange, analysis, contributions to strategic projects and reports, project management and any other specialised, technical or administrative assistance to the organisational entity to which the SNE is assigned. SNEs may not perform middle or senior management duties nor deputise for their immediate superior.
2. The specific tasks and duties of an SNE shall be described in the call for applications as part of the selection procedure under Article 4(2) or in the agreement between Eurojust and the employer concluding the secondment for SNEs assigned to National Desks. Any significant changes in the tasks shall be agreed between Eurojust and the employer.
3. An SNE shall take part in missions or external meetings on behalf of Eurojust only as part of a delegation led by a Eurojust staff member, or alone when acting on a specific mandate granted by his/her superior, after having ensured that there is no potential conflict of interest. In such cases the SNE shall receive clear written instructions from the supervisor on the position to be adopted during the mission or meeting in question. Under no circumstances may a SNE on his/her own represent Eurojust with a view to entering into commitments, whether financial or otherwise, or negotiating on its behalf. An SNE may, however, represent Eurojust in legal proceedings as co-agent with a Eurojust staff member.
4. Eurojust 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 management and supervision of the SNE's work performance as well as absence and leave shall be the responsibility of the SNE's supervisor.
6. 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 inform the SNE and his/her seconding authority before the start of the secondment about the intended duties and shall 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 SNE shall be asked, in particular, to declare any potential conflict between his/her family circumstances (in particular the professional activities of close family members or any of his/her own important financial interest or those of close family members) and the proposed duties while on secondment.

The seconding authority and the SNE shall also undertake to notify Eurojust of any change of circumstances during the secondment that could give rise to any such conflict. The Human Resources Unit of Eurojust shall keep a copy of all such exchanges of correspondence in the SNE's personal file.

7. SNEs whose duties require access to EUCI classified CONFIDENTIEL EU/EU CONFIDENTIAL or above, or to sensitive case-related information, shall be security cleared to the relevant level or duly authorised by virtue of their functions in accordance with Part I, Articles 15, 16 and 19 of the Eurojust Security Rules.

### **Article 8 – Rights and obligations**

1. During the period of secondment:
  - a. In the performance of his/her duties, the SNE shall conduct him/herself solely with the interests of Eurojust in mind and he/she shall neither seek nor take instructions from any government, authority, organisation or person outside Eurojust. He/she shall carry out the duties assigned to him/her objectively, impartially and in keeping with the duty of loyalty to Eurojust.
  - b. An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside Eurojust, including undertaking any activity for the employer, shall be subject to Eurojust's rules on prior authorisation for outside activities for temporary staff.
  - c. The SNE shall refrain from any action or behaviour that might reflect adversely upon his/her position and from any form of psychological or sexual harassment<sup>5</sup>.
  - d. The SNE shall not, in the performance of his/her duties, deal with a matter in which, directly or indirectly, he/she has any personal interests such as to impair his/her independence, and, in particular, family and financial interests. If it falls in the performance of the SNE's duties to deal with such a matter, he/she shall inform the supervisor immediately, who shall take any appropriate measure, and may, in particular, relieve the SNE from responsibility in this matter.

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<sup>5</sup> Article 12a of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

The SNE shall declare any gainful activity performed in a professional capacity by his/her spouse<sup>6</sup>, as defined by the Staff Regulations.

- e. The SNE shall refrain from any unauthorised disclosure of information received in the line of duty<sup>7</sup>, unless that information is already in the public domain. The duty of confidentiality also applies to any participation in legal proceedings, in which an SNE may not, without permission from the Administrative Director, disclose information of which he/she has knowledge by reason of his/her duties.
  - f. The SNE has the right to freedom of expression, with due regard for the principles of loyalty and impartiality. Without prejudice to point (b) above, an SNE who intends to publish or causes to be published, whether alone, or with others, any matter dealing with the work of Eurojust shall inform the Administrative Director in advance. Where the Administrative Director is able to demonstrate that the matter is liable seriously to prejudice the legitimate interests of Eurojust, the Administrative Director shall inform the SNE of its decision in writing within 30 working days of receipt of the information. If no such decision is notified within the specified period, the Administrative Director shall be deemed to have had no objections.
  - g. All rights in any work done by the SNE in the performance of his/her duties shall be the property of Eurojust.
  - h. SNEs shall be subject to the security rules in force at Eurojust.
2. Failure by the SNE to comply with any of the provisions of paragraph 1 or of Article 7 shall entitle Eurojust, if it sees fit, to terminate the secondment pursuant to Article 10.
  3. After termination of the secondment, an SNE shall continue to be bound by the duty to behave with integrity and discretion as regards the exercise of new tasks assigned to him/her and the acceptance of certain appointments or benefits. To that end, in the three years following the period of secondment the SNE shall immediately inform Eurojust of any duties or tasks likely to give rise to a conflict of interest in relation to the tasks carried out by the SNE during the period of secondment.

### **Article 9 – Suspension of secondment**

1. At the written request of the SNE or his/her employer, and with the latter's agreement, Eurojust may authorise suspensions of periods of secondment. The minimum duration of the suspension of secondment shall be five working days.
2. During such suspensions:
  - a. the subsistence allowances referred to in Article 17 shall not be payable;
  - b. the travel expenses referred to in Article 18 shall be payable only if the suspension is at Eurojust's request;
3. The period of suspension shall not be counted in the period of secondment as defined in Article 5.

### **Article 10 – Termination of secondment**

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<sup>6</sup> Non-marital partnerships shall be treated as spousal relationships provided that all the conditions listed in Article 1(2)(c) of Annex VII to the Staff Regulations are fulfilled.

<sup>7</sup> Article 72 of the Eurojust Regulation

1. Subject to paragraph 2, the secondment may be terminated at the request of Eurojust or of the SNE's employer, with a period of three months' notice, or at the SNE's request, subject to the same period of notice and with the agreement of Eurojust and the SNE's employer.
2. In exceptional circumstances the secondment may be terminated:
  - a. by the SNE's employer if the employer's essential interests so require;
  - b. without notice by Eurojust and the employer acting jointly, on request by the SNE to both parties, if the SNE's personal or professional interests so require;
  - c. without notice by Eurojust in the event of the termination of, or change in, the SNE's administrative status with his/her employer, including where the SNE is nominated as a National Member, Deputy National Member or Assistant at Eurojust;
  - d. without notice by Eurojust in the event of a failure by the SNE or his/her employer to respect the obligations under this Decision.

### **Article 11 - Social security**

1. The SNE's employer shall certify to Eurojust that the SNE will remain, throughout the period of secondment, subject to the social security legislation applicable to the employer and will assume responsibility for expenses incurred abroad.
2. During the period of secondment, SNEs shall be covered by Eurojust against the risk of accident in the premises.

### **Article 12 - Working time**

1. The working hours for SNEs shall be the same as those determined in the rules on working time and hybrid working in force at Eurojust.
2. The SNE shall serve on a full time basis throughout the period of secondment. Following a duly justified request Eurojust may authorise the SNE to work part-time, provided the employer agrees and the part-time schedule is compatible with the interests of the service. In this case the SNE shall be entitled to a percentage of the subsistence allowances in Article 17 corresponding to the percentage of the time worked. The amount of annual leave shall also be reduced accordingly.

### **Article 13 - Absence due to sickness or accident**

1. The rules in force at Eurojust on absence due to sickness or accident shall apply to SNEs.
2. Where the period of sick leave exceeds three months, or the period of service performed by the SNE, whichever is longer, the allowances referred to in Article 17 shall be automatically suspended. Sick leave may not extend beyond the duration of the secondment.
3. SNEs who suffer from a work-related injury, which occurs during the secondment, shall continue to receive the 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 secondment.

### **Article 14 - Annual and special leave**



1. The rules on annual and special leave applicable to temporary staff at Eurojust shall apply to SNEs, with the exception of the provisions relating to grade.
2. Leave is subject to prior authorisation by the supervisor to which the SNE is assigned. In case of unauthorised absence, 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 in a 12-month period to visit the employer.
4. Days of annual leave not taken by the end of the secondment shall be forfeited.

### **Article 15 – Maternity and paternity leave**

1. The rules in force at Eurojust on maternity and paternity leave shall apply to SNEs. While on maternity leave the SNE shall receive the subsistence allowances set out in Article 17.
2. Where the relevant rules binding the employer of the SNE provide for a period of maternity leave longer than that granted by Eurojust, the secondment may, at the SNE's request and after agreement of the employer, be interrupted for the period exceeding that granted by Eurojust.

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

3. An SNE may, as an alternative, apply for a suspension of the secondment to cover the whole of the period allowed for maternity, after prior agreement of the employer.
4. Paragraphs 1, 2 and 3 shall also apply to the cases of adoption.

### **Article 16 – Place of origin**

1. For the purposes of this Decision, "place of origin" means the place where the SNE actually performed his/her duties for his/her employer prior to the secondment, irrespective of where the employer is geographically based or has established its primary office. The place of origin shall be established in writing at the start of the SNE's secondment and shall remain as established throughout the duration of the secondment and any subsequent extensions.
2. If, six months before secondment to Eurojust as an SNE, an expert already has his/her main residence in a place other than that in which the employer is located, the place of origin shall be deemed to be whichever of the places is closer to the place of secondment.

### **Article 17 – Subsistence allowances**

1. SNEs other than those seconded cost-free shall be entitled, throughout the period of secondment, to a daily subsistence allowance and a monthly subsistence allowance. The amount of the subsistence allowances is adjusted annually in line with the adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations. The current amounts will be published on Eurojust's website.
2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for temporary staff.



3. Subsistence allowances shall be payable for every day of the week, including during periods of mission, annual leave, special leave and holidays granted by Eurojust, unless otherwise indicated.
4. With the exception of the first month of secondment, the daily and monthly allowances shall be paid by the end of each month. Payments shall be made in euros.
5. These allowances are intended to cover SNEs' living expenses at the place of secondment on a flat-rate basis and shall in no circumstances be construed as remuneration paid by Eurojust. The allowances are therefore conditional upon the SNE residing at the place of secondment.
6. The SNE shall inform the HR Unit of Eurojust of any similar payments received from other sources. Any such amounts shall be deducted from the corresponding allowance paid by Eurojust.
7. Eurojust shall be entitled to recover any undue payments made to SNEs under these rules. The request for recovery must be made no later than five years from the date on which the sum was paid. Where the Appointing Authority is able to establish that the recipient deliberately misled the administration with a view to obtaining the sum concerned, the request for recovery shall not be invalidated even if this period has elapsed.

#### **Article 18 – Payment of ESH school fees**

Eurojust shall cover ESH school fees pertaining to the children of SNEs seconded to Eurojust for a minimum continuous period of six months. Payment of such fees shall be subject to the availability of funds and approval of the Authorising Officer. Where there are limited funds, eligible SNEs will be treated equitably.

#### **Article 19 - Travel expenses**

1. SNEs other than those seconded cost-free, shall be entitled to a flat-rate payment towards the cost of travel undertaken between their place of origin and the place of secondment at the beginning and end of their secondment.
2. The flat-rate payment shall be based on the kilometric distance in accordance with the rules and conditions applicable to travel expenses for temporary staff at Eurojust.
3. By way of derogation from paragraph 1, SNEs who prove that they have changed the place at which they will be primarily employed after the end of the secondment shall be entitled to reimbursement of the travel expenses to that place under the conditions laid down in Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles. However, the reimbursement may not be more than the amount that would have been paid had the SNE returned to the place of origin.
4. Eurojust shall not reimburse any expenses referred to in the preceding paragraphs where they have actually been met or reimbursed by the employer or any other body. For this purpose the SNE shall declare any such payments or reimbursements.

### **Article 20 – Missions**

1. An SNE may be sent on mission subject to Article 7.
2. Mission expenses shall be reimbursed in accordance with the rules and conditions relating to the payment of mission expenses in force at Eurojust.

### **Article 21 – Training**

SNEs shall be entitled to attend training courses, where space and budget allows and if the interests of Eurojust warrant it.

### **Article 22 – Complaints**

1. Without prejudice to the possibilities for instituting proceedings under the conditions laid down by Article 263 of the Treaty on the Functioning of the European Union, an SNE may submit a complaint to the Complaints Committee against a decision adversely affecting him/her taken under this Decision, with the exception of decisions that are the direct consequences of decisions taken by his/her employer.
2. 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 Complaints Committee shall notify the SNE of its 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.

### **Article 23 – Final provision**

This decision repeals and replaces College Decision 2021-11 of 9 November 2021 laying down rules on the secondment of national experts to Eurojust .

### **Article 24 – Entry into force**

This Decision shall take effect on 10 October 2023 and shall apply to all SNEs at Eurojust.

Done at The Hague on 10 October 2023

On behalf of the College of Eurojust,



Ladislav Hamran  
President of Eurojust