

 **EUROPOL**

PUBLIC

EDOC#1281940v4A

Document made public on:

26 JUN 2023

DECISION OF THE MANAGEMENT BOARD OF EUROPOL

**laying down rules
on the secondment of national experts to Europol**

THE EUROPOL MANAGEMENT BOARD,

Having regard to Regulation (EU) 2016/794 of the European Parliament and of the Council of 11 May 2016 on the European Union Agency for Law Enforcement Cooperation (Europol) and replacing and repealing Council Decisions 2009/371/JHA, 2009/934/JHA, 2009/935/JHA, 2009/936/JHA and 2009/968/JHA¹ (“Europol Regulation”), as amended by Regulation 2022/991 of the European Parliament and of the Council of 8 June 2022 as regards Europol’s cooperation with private parties, the processing of personal data by Europol in support of criminal investigations, and Europol’s role in research and innovation², and in particular Article 56(2) thereof,

Having regard to the Staff Regulations of Officials of the European Union (“Staff Regulations”) and the Conditions of Employment of Other Servants of the European Union (“CEOS”) laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968³,

Having regard to Commission Decision C(2017) 5323 of 27 September 2017 on the general provisions for implementing Articles 11, 12 and 13 of Annex VII to the Staff Regulations of Officials (mission expenses) and on authorised travel⁴ (“Guide to missions and authorised travel”) - and in particular its Annex⁵ - which become applicable to Europol by analogy on 2 July 2018,

Whereas:

- (1) Pursuant to Article 56(1) of the Europol Regulation, *Europol may make use of seconded national experts.*

¹ OJ L 135, 24.5.2016, p. 53.

² OJ L 169, 27.6.2022, p. 1–42.

³ 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.

⁴ EDOC#928084.

⁵ EDOC#928085.

Europol Unclassified – Basic Protection Level

- (2) Seconded National Experts (“SNEs”) should enable Europol to benefit from the high level of their professional knowledge and/or professional experience, in particular, in areas where a specific expertise is not readily available.
- (3) It is highly desirable to foster the exchange of professional experience in, and knowledge of, international cooperation in all activities pertaining to the field of law enforcement by temporarily assigning to Europol, even for short periods, experts from the Member States.
- (4) In order to ensure that Europol’s independence is not compromised by private interests, it should be stipulated that SNEs must exclusively come from Member States’ competent authorities.
- (5) In order 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 solely in the interests of Europol.
- (6) In view of their special status, it should be stipulated that SNEs acting alone shall not exercise any of the responsibilities that belong to Europol by virtue of the powers conferred upon it, unless specially empowered to do so in writing by the Executive Director of Europol (“Executive Director”).
- (7) It is desirable to lay down 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 and the CEOS, but without actually assimilating SNEs to Europol staff.
- (8) Steps should be taken to make it easier to review subsistence allowances, taking account of adjustments to the basic salaries of officials of the European Union in Brussels and Luxembourg.
- (9) The Europol National Units (“ENUs”), as referred to in Article 7 of the Europol Regulation, play a crucial role in implementing this Decision and should therefore enjoy a particularly close working relationship with Europol.
- (10) The Council of the EU, following the attacks in Paris, called on Europol, in the context of strengthening controls at the external borders of the EU, to deploy guest officers to the hotspots in support of the screening process, in particular by reinforcing Secondary Security Checks (conclusions of the Council of the EU and of the Member States meeting within the Council on Counter-Terrorism held on 20 November 2015) and reiterated this call on 10 March 2016.
- (11) The Management Board endorsed, on 12 May 2016, Europol’s Operational Plan on Secondary Security Checks which allows the deployment of SNEs to the hotspots in order to assist Europol in carrying out the Secondary Security Checks.
- (12) The use of SNEs in the context of the Secondary Security Checks must be reflected in this Decision in order to allow for a timely and flexible recruitment and use of these experts.

Europol Unclassified – Basic Protection Level

- (13) In line with its Strategy 2020+, Europol aims to provide agile operational support to Member States' investigations pertaining to high-risk individuals, groups and crime incidents. In this context, and due to the scarcity of highly specialised expertise and knowledge in particular investigations, a need has arisen for law enforcement experts who will be available to provide specialised support to the Member States and Europol, for a short-term.
- (14) The means of their flexible and rapid deployment by Europol to enable an effective and timely operational response to criminal cases that pose a risk to the internal security of the Member States, must be laid down in detail,

HAS ADOPTED THIS DECISION:

CHAPTER I General provisions

Article 1 Definitions

For the purposes of the present Decision:

- (a) "Member State" shall mean any Member State of the European Union upon which the Europol Regulation is binding and in which it is applicable;
- (b) "Competent authority(-ies)" shall mean, as defined in Article 2(a) of the Europol Regulation, (all) police authority(-ies) and other law enforcement services existing in the Member State(s) which are responsible under national law for preventing and combating criminal offences as well as other public authorities existing in the Member State(s) which are responsible under national law for preventing and combating criminal offences in respect of which Europol is competent;
- (c) "Seconding authority(-ies)" shall mean (all) a Member State's competent authorities seconding staff to Europol in accordance with the provisions of this Decision;
- (d) "Seconded National Experts" or "SNEs" shall mean staff with specific expertise employed by a competent authority of a Member State, who are seconded to Europol in accordance with this Decision so that it can use their high level of professional knowledge and/or professional experience;
- (e) "Cost-free SNEs" shall mean SNEs for whom Europol does not pay any of the allowances provided for in Chapter III or cover any of the expenses provided for in this Decision, other than those related to the performance of their duties during their period of active secondment.

Europol Unclassified – Basic Protection Level

- (f) "Long-stay missions" shall mean missions lasting, in principle, more than 59 consecutive calendar days in the same place in accordance with section 2.8 of the Guide to Missions and authorised travel.
- (g) "Place of origin" shall mean the place where the SNE performed his duties for the seconding authority at the time of his secondment. This shall be defined in the exchange of letters referred to in Article 4(4).
- (h) "Place of secondment" shall mean the place where the Unit/Department or office of Europol to which the SNE is seconded is located. This shall be defined in the exchange of letters referred to in Article 4(4).

Article 2

Scope

1. This Decision shall apply to SNEs seconded to Europol, including cost-free SNEs, as defined in Article 1 above, except in case of an express derogation.

SNEs shall be seconded to Europol in accordance with the provisions of Article 56 of the Europol Regulation, taking into account Europol's requirements and its budgetary possibilities. The requirements of the Member States may also be taken into account for the secondment of SNEs for Secondary Security Checks, and for SNEs seconded short-term as per Chapters IV and V, respectively.

2. Any reference in this Decision 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.
3. The persons covered by this Decision shall remain in the service of their seconding authority throughout the period of active secondment.

The seconding authority shall undertake to continue to pay the SNE's salary, to maintain his administrative status (permanent official or contract staff member) throughout the period of active secondment and to inform the Europol Human Resources Unit of any change in the SNE's situation in this regard. The seconding authority 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 Europol, without notice, in accordance with Article 11(2)(d).

4. An SNE must be a national of a Member State.

Article 3

Cost-free SNEs

1. Cost-free SNEs may be seconded in accordance with this Decision from the competent authorities as defined in Article 1.

Europol Unclassified – Basic Protection Level

2. The Executive Director 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.
3. Cost-free SNEs shall be taken into account in Europol's annual budget and allocation of human resources.

Article 4 Selection procedure

1. SNEs shall be selected according to an open and transparent procedure, the practical details of which shall be decided by the Executive Director.⁶
2. Before the Executive Director decides on a secondment, Europol must have been authorised to use SNEs in the annual budget and allocation of human resources, as adopted by the Management Board.
3. Applications shall be forwarded to Europol by the ENUs.
4. The secondment shall be authorised by the Executive Director and effected by an exchange of letters between the Executive Director and the seconding authority.
5. When planning a secondment, Europol shall ensure the geographical and gender balance and compliance with the principle of equal opportunities, in accordance with the principles set out in Articles 1d and 27 of the Staff Regulations. The Europol Human Resources Unit shall monitor compliance and, in the event of a serious imbalance, shall take the necessary corrective measures to ensure balanced representation of SNEs.

Article 5 Period of active secondment

1. The period of active secondment, including any extension, shall not exceed four years.
2. The official start date, set in accordance with Article 23, the end date and the initial duration of the period of active secondment shall be fixed at the outset in the exchange of letters referred to in Article 4(4). Any extension of the period of active secondment shall be the subject of a new exchange of letters.
3. An SNE who has already been seconded to Europol may be seconded to it another time, subject to the following conditions:
 - a) the SNE must continue to meet the conditions for secondment;

⁶ Decision of the Executive Director of 16 November 2021 on the selection procedure for Seconded National Experts (SNEs), EDOC#1176828v15, and any successor thereto.

Europol Unclassified – Basic Protection Level

- b) a period of at least three years must have elapsed between the end of the previous period of active secondment and the new period of active secondment ("absence period"); if at the end of the previous period of active secondment the SNE received an employment contract with Europol, the duration of that contract shall be taken into account when calculating the three-year absence period referred to above.

The minimum absence period of three years referred to at b) shall not be required if:

- the previous period(s) of active secondment lasted for less than four years, but in that case the new period of active secondment shall not exceed the unexpired part of the four-year period, or if
- the previous period(s) of active secondment was undertaken as an SNE seconded short-term pursuant to Chapter V.

Article 6 Place of secondment

The place of secondment shall be at the seat of Europol or at any place where Europol has an office within or outside the European Union.

Article 7 Duties

1. SNEs shall assist Europol's temporary agents in the framework of a clearly defined assignment or project.

The duties to be carried out shall be defined in the letters to be exchanged in accordance with Article 4(4), or Article 10(3) where relevant, taking into account the candidate's qualifications.

SNEs may not perform middle or senior management duties, even when deputising for their immediate superior.

2. The letters referred to in Article 4(4), or Article 10(3) where relevant, shall stipulate the scope and level of access to the Europol information processing systems to be granted to the SNEs for the performance of their duties. The scope and level of access shall be determined in accordance with the provisions of the Europol Regulation and any other relevant acts; to that end, SNEs shall be assimilated to Europol staff members.
3. An SNE shall take part in missions or external meetings only as part of a delegation led by a Europol temporary agent or, if on his own, as an observer or for information purposes.
4. In all other cases, by way of derogation from paragraph 3, the Executive Director or by delegation, the Deputy Executive Director or the line manager of the Unit or

Europol Unclassified – Basic Protection Level

Department to which the SNE concerned is assigned, 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 mandate shall contain clear and specific written instructions on the position to adopt during the missions or meetings in question.

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

5. The Europol line manager of the Unit or Department to which the SNE is assigned shall be responsible for approving the results of any duties performed by an SNE and for signing any official documents prepared by him.
6. Europol, the SNE's seconding authority and the SNE must ensure that there is no conflict of interest in relation to the SNE's duties while seconded to Europol.

For this purpose, Europol shall inform the SNE and his seconding authority before the start of the period of active 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 seconding authority and the SNE shall also undertake to inform Europol of any change of circumstances during the period of active secondment which could give rise to any such conflict.

The Europol Human Resources Unit shall keep a copy of all such exchanges of correspondence in its records.

7. Where Europol considers that the activities entrusted to the SNE are of a sensitive nature, security clearance of at least the level of *UE CONFIDENTIEL/EU CONFIDENTIAL* shall be provided to Europol prior to the secondment.
8. Failure on the part of the SNE to comply with his obligations arising under the provisions of this Article shall entitle Europol to terminate the secondment of the SNE under the terms of Article 11(2)(d).

Article 8 Rights and obligations

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

Europol Unclassified – Basic Protection Level

- b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside Europol shall be subject to the rules in force at Europol on prior authorisation for temporary agents⁷. Europol shall consult the SNE's seconding authority before issuing an authorisation, which shall confirm that the engagement in an outside activity is in conformity with the national provisions applicable to the SNE concerned.
- c) The SNE shall refrain from any action or behaviour which might reflect adversely upon his position at Europol and from any form of psychological or sexual harassment⁸.
- 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 the Europol line manager of the Unit or Department to which he is assigned, who shall 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 have dealings with Europol, 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 has the right to freedom of expression, with due respect to the principles of loyalty and impartiality.

Without prejudice to point c) above as well as to paragraphs 2 and 3, an SNE who intends to publish or cause to be published, whether alone or with others, any matter dealing with the work of Europol shall inform the Europol line manager of the Unit or Department to which he is assigned in advance. Where the Europol line manager of the Unit or Department is able to demonstrate that the matter is liable to seriously prejudice the legitimate interests of Europol or of the European Union 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 Europol line manager of the Unit or Department shall be deemed to have had no objections.

- f) All rights in any work done by the SNE in the performance of his duties shall be the property of Europol.
- g) The SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities.

⁷ Article 12b of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

⁸ Article 12a of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

Europol Unclassified – Basic Protection Level

- h) Based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in the Unit/Department to which he is assigned and shall be responsible to his superiors for the performance of the duties entrusted to him.
 - i) Both during and after the period of active secondment, 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.
 - j) The rights and obligations deriving from Chapters III and IV of the Europol Management Board Decision of 13 March 2022 laying down general implementing provisions on the conduct of administrative inquiries and disciplinary proceedings⁹ are applicable by analogy to SNEs by virtue of Article 2 of said Decision.
2. Both during and after the period of active secondment, the SNE shall be subject to the provisions adopted pursuant to Article 67 of the Europol Regulation which include, in particular, the obligation of confidentiality and discretion. The Code of Conduct of Europol is applicable to SNEs.
 3. Failure to comply with any of the provisions of this Article shall entitle Europol to terminate the secondment of an SNE pursuant to Article 11(2)(d).

Article 9

Professional experience and knowledge of languages

1. To qualify for secondment to Europol a national expert must have at least three years of professional experience in the field of law enforcement which is relevant to the duties to be carried out during the period of active secondment. Before the secondment, the seconding authority shall supply Europol with a statement of the expert's employment over the previous twelve months.
2. The SNE must produce evidence of a thorough knowledge of one official language of the European Union and a satisfactory knowledge of a second language in accordance with the decision of the Management Board on the internal language arrangements of Europol as referred to in Article 64(2) of the Europol Regulation¹⁰, with the understanding that he will have to carry out his duties in a mainly English-speaking environment.

⁹ EDOC #1214015v4 and any successor thereto.

¹⁰ EDOC #1125352v3 and any successor thereto.

Europol Unclassified – Basic Protection Level

Article 10

Suspension of active secondment

1. Upon its own initiative, or at the written request of the SNE or his seconding authority, and with the latter's agreement, Europol may authorise suspension(s) of a period of active secondment and specify the terms applicable.

During such suspension(s):

- a) the subsistence allowances referred to in Article 18 shall not be payable.
 - b) the travel expenses referred to in Article 20 shall be payable only if the suspension is at Europol's request.
2. The period(s) of suspension shall not be counted in the period of active secondment as defined in Article 5.
 3. The (re)activation of a secondment following a suspension shall be effected by an exchange of letters between the Executive Director and the SNE's seconding authority.

Article 11

Termination of secondment

1. Subject to paragraph 2 and provided notice is given, the secondment may be terminated at the request of Europol or of the SNE's seconding authority or at the SNE's request. The termination of the secondment shall be effected by an exchange of letters between the Executive Director and the SNE's seconding authority. The period of notice shall be one week per month of service with a maximum of 3 months.
2. In exceptional circumstances the secondment may be terminated without notice:
 - a) by the SNE's seconding authority, if the seconding authority's essential interests so require;
 - b) by Europol and the seconding authority acting jointly, on request by the SNE to both parties, if the SNE's essential personal or professional interests so require;
 - c) by the seconding authority in the event of a failure by Europol to respect their obligations under this Decision. The seconding authority shall immediately inform Europol and the SNE accordingly;
 - d) by Europol in the event of a failure by the SNE or his seconding authority to respect their obligations under this Decision or in case the SNE ceases to meet the conditions of secondment. Europol shall immediately inform the SNE and the seconding authority accordingly.

Europol Unclassified – Basic Protection Level

3. Secondments shall in principle be terminated on the fifteenth or last calendar day of a given month. Should a secondment be terminated on a different day, the termination shall be without prejudice to the calculation method of the subsistence allowances pursuant to Article 18(7) and (8).

CHAPTER II Working conditions

Article 12 Social security

1. Prior to the secondment¹¹, the seconding authority shall certify to Europol that the SNE will remain, throughout the period of active secondment, subject to the social security legislation applicable to the SNE's seconding authority and will be responsible for expenses incurred abroad. To this end, the SNE's employer shall provide Europol with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/72¹².
2. From the day on which their period of active secondment begins, SNEs shall be covered by Europol against the risk of accident in the course of or in connection with the performance of his duties. Europol shall provide them with a copy of the terms of this cover on the day on which they report to the Europol Human Resources Unit to complete the administrative formalities related to the secondment.

Article 13 Working hours

1. The working hours for SNEs shall be the same as those in force at Europol.¹³
2. The SNE shall serve on a full-time basis throughout the period of active secondment.

Following a duly justified request made in accordance with the applicable procedures for Europol staff, Europol may allow an SNE to work part-time, provided both the Deputy Executive Director of the Directorate to which the SNE is assigned and the SNE's seconding authority, agree and the arrangement is compatible with the smooth running of the service. Article 55a of the Staff Regulations and Annex IVa thereto, as well as the provisions implementing the said norms shall apply *mutatis mutandis*; while assessing the said request, the grounds to be considered shall, however, be limited to the ones mentioned in Article 55a, paragraph 2, of the Staff Regulations, as further defined in the provisions implementing this Article.

¹¹ Refers to either the initial duration of the secondment, or its extension.

¹² OJ L 74, 27.3.1972, p.1.

¹³ Articles 55, 56 and 56c of the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

Europol Unclassified – Basic Protection Level

Article 14 Sick leave

1. The rules in force at Europol on absence due to sickness or accident shall apply to SNEs¹⁴.
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 18 shall be automatically suspended.

Sick leave may not extend beyond the duration of a period of active secondment of the SNE concerned.

3. SNEs who are the victim of an accident which occurs in the course of or in connection with the performance of their duties during the period of active 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 a period of active secondment.

Article 15 Annual and special leave

1. The rules in force at Europol on annual and special leave shall apply to SNEs¹⁵, with the exception of the provisions relating to grade and to special leave for training.
2. Leave shall be subject to prior authorisation by the Europol line manager of the Unit or Department to which the SNE is assigned. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, subsistence allowances for the days of such unauthorised leave shall not be paid.
3. Upon a duly justified request from the SNE, he may be granted up to two days of *ad-hoc* leave by Europol in a 12-month period of active secondment to visit his seconding authority. Such visit shall be for the purpose, *inter alia*, of national compulsory trainings, promotion exercises and/or medical checks, which are deemed mandatory by the seconding authority, or for the purpose of making other arrangements related to the secondment at Europol. Relevant supporting documents in this regard shall be attached to the leave request.
4. Days of annual leave not taken by the end of the period of active secondment shall be forfeited, except when the following cumulative conditions are met:
 - a. The end date of the period of active secondment is the same as the end date of the secondment altogether; and

¹⁴ Articles 59, with the exception of paragraph 6 thereof, and 60 of the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

¹⁵ Articles 57 and 59a and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

Europol Unclassified – Basic Protection Level

- b. A new secondment is entered into; and
- c. The period of active secondment of the new secondment starts on the first day following the end date of the immediately preceding secondment.

Article 16 Maternity leave

1. The rules in force at Europol on maternity leave shall apply to SNEs¹⁶. While on maternity leave the SNE, unless seconded cost-free, shall receive the subsistence allowances referred to in Article 18.
2. Where the rules that are binding upon the SNE's seconding authority provide for a period of maternity leave longer than that granted by Europol, the period of active secondment may, at the SNE's request, be suspended for the period by which that leave exceeds the leave granted by Europol.
3. An SNE may as an alternative, apply for a suspension in the period of active secondment to cover the sum of the periods allowed for maternity leave.

Article 17 Management and control

1. The management of the activities of the SNE and the supervision of his work shall lie with the Europol line manager of the Unit or Department to which he is assigned.

The ability, efficiency and conduct of each SNE seconded pursuant to this Decision, shall be the subject of a periodical report made in accordance with the assessment procedure in force at Europol. A copy of the report shall be transmitted to the SNE's seconding authority.

2. Management and control of leave shall be the responsibility of the Europol Human Resources Unit.

Control of working time and absences shall be the responsibility of the Europol line manager of the Unit or Department to which the SNE is assigned.

¹⁶ Article 58 of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

Europol Unclassified – Basic Protection Level

CHAPTER III **Allowances and expenses**

Article 18 *Subsistence allowances*

1. SNEs other than those seconded cost-free shall be entitled, throughout the period of active secondment, to a daily subsistence allowance and a monthly subsistence allowance.

Subject to the adjustments referred to in paragraph 5, on the date of entry into force of this Decision:

- the daily subsistence allowance for Brussels and Luxembourg shall be € 138,15;
- the monthly subsistence allowance shall be paid in accordance with the following table:

Distance between place of origin and place of secondment (km) ¹⁷	Amount in €
0 – 150	0
> 150	88,80
> 300	157,86
> 500	256,55
> 800	414,42
> 1300	651,23
> 2000	779,52

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials¹⁸.
3. In the case of cost-free SNEs, the exchange of letters referred to in Article 4(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 updated pursuant to Article 64 of the Staff Regulations.
5. The adjustments to remuneration and weightings updated pursuant to Articles 64 and 65 of the Staff Regulations shall apply automatically to the subsistence allowances in the month following their adoption. The Executive Director shall be

¹⁷ The methodology foreseen in Articles 7 and 8 of Annex VII to the Staff Regulations to calculate distance shall apply *mutatis mutandis*.

¹⁸ Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

Europol Unclassified – Basic Protection Level

responsible for implementing this provision and shall publish the new rate for subsistence allowances on Europol's intranet 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 Europol.

Prior to the secondment¹⁹, the SNE's seconding authority shall certify to Europol that during the period of active secondment it will maintain the level of remuneration the SNE was receiving at the time of his secondment.

The SNE and the seconding authority shall inform the Europol Human Resources Unit of any allowance similar to the subsistence allowances paid by Europol received by the SNE from other sources. This amount shall be deducted from the subsistence allowances paid by Europol. Following a duly justified request from the seconding authority, Europol may decide not to make this deduction.

7. Daily subsistence allowance shall be payable for every day of the week during the period of active secondment, including during periods of mission, annual leave, special leave and holidays granted by Europol.
8. Monthly subsistence allowance shall be calculated *pro-rata* during the period of active secondment, including during periods of mission, annual leave, special leave and holidays granted by Europol. For the purpose of this *pro-rata* calculation, a month shall be considered as having thirty calendar days.
9. Subsistence allowances shall be paid monthly in arrears at the end of each month.

Article 19 Place of origin

1. If, six months before his secondment to Europol as an SNE, a national expert already has his habitual residence in a place other than that in which the seconding authority's headquarters is located, the place of origin shall be deemed to be whichever of the places is closer to the place of secondment, as defined in Article 1(h).
2. If a secondment as costed SNE immediately follows a secondment as cost-free SNEs, or *vice-versa*, the place of origin established at the time of the second type of secondment shall remain the same as the one established, pursuant to paragraph 1, at the time of first type of secondment.
3. Irrespective of where the place of origin has been set in accordance with paragraphs 1 and 2, the subsistence allowances foreseen in Article 18 may be granted if the conditions set out in its paragraph 2 are met.

¹⁹ Refers to either the initial duration of the secondment, or its extension.

Europol Unclassified – Basic Protection Level

Article 20 Travel expenses

1. Without prejudice to Article 10(1)(b), 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, at the beginning and end of their active secondment.
2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at Europol²⁰.
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 active secondment shall be entitled to reimbursement of the travel expenses to that new place under the rules and conditions referred to 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.
4. Europol shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the seconding authority or any other body. The seconding authority concerned shall inform the Europol Human Resources Unit thereof.

Article 21 Missions and mission expenses

1. SNEs may be sent on mission subject to Article 7.
2. Expenses in relation to missions shall be reimbursed in accordance with the relevant rules and conditions in force at Europol²¹.

Article 22 Training

1. SNEs shall be entitled to attend in-house training courses organised by Europol if the interests of Europol 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.
2. In exceptional circumstances, where justified by the interests of the service and necessary for the current job²², SNEs may be entitled to participate in external

²⁰ Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

²¹ Article 11 and 12 of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

²² As defined in Article 8.2.(a) of the Decision of the Management Board of Europol of 3 October 2018 on the Framework for Learning and Development (EDOC#974017).

Europol Unclassified – Basic Protection Level

training activities organised outside the premises of Europol. Participation in such trainings shall be subject to prior and explicit approval, in accordance with the framework for learning and development in force at Europol and the rules on access to training established therein²³.

Article 23 Administrative provisions

1. SNEs shall report to the Europol Human Resources Unit on the first day of the period of active 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 The Hague shall report to the appropriate Europol office in the place of secondment.

Article 24 Complaints

1. Any SNE may submit a complaint to the Executive Director about a decision adopted by Europol under this Decision that adversely affects him, with the exception of decisions which are direct consequences of decisions taken by his seconding authority.
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 Executive Director 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.

Article 25 Liability and cases of conflict

1. If damage is caused by the SNE in the course of or in connection with the performance of his duties, either to Europol or to a third party, and which cannot be recovered by Europol otherwise (or from other sources), the seconding authority and Europol shall endeavour to find an equitable solution for the compensation of damages suffered.

In the endeavour to find an equitable solution both parties shall be guided by the principle of direct liability due to own fault. Any dispute between the seconding authority and Europol over the principle or amount of the repayment of damages caused by the SNE should be referred to the Chairperson of the Management

²³ Decision of the Management Board of Europol of 3 October 2018 on the Framework for Learning and Development (EDOC #974017), Europol Internal Guidelines on Learning and Development of 18 December 2018 (EDOC #974015), and any successor thereto.

Europol Unclassified – Basic Protection Level

Board, who shall settle the matter. If the Chairperson of the Management Board comes from the same Member State as the seconding authority, the Deputy Chairperson shall be referred to.

2. In cases of conflict between the seconding authority and Europol, or between the SNE and Europol, Europol will be entitled to prohibit access to the Europol premises by the SNE, or to grant such access only under particular conditions or restrictions.
3. Where there is a serious conflict between Europol and the SNE, Europol is entitled to terminate the secondment in accordance with Article 11.

CHAPTER IV Provisions on the secondment of cost-free national experts for Secondary Security Checks

Article 26 General principles and definitions

1. The provisions of this Decision shall apply to SNEs for Secondary Security Checks (SSCs), unless stipulated otherwise in this Chapter.
2. "SSCs" are Europol's activities in the context of strengthening controls at the external borders of the EU, in particular at the "hotspots" in support of the screening process.

Article 27 General provisions

1. By way of derogation from Article 3(2), SNEs seconded by the national authorities for SSCs are recruited as cost-free SNEs.
2. Their place of secondment shall be at the seat of Europol. Long-stay missions of the SNE to any place within or outside the European Union shall not be regarded as changing the place of secondment.
3. Their duty to reside at the place of secondment according to Article 8(1)(g) may be waived by Europol in cases where the SNE participates, during his period of active secondment, in repeated long-stay missions which would render a residence at the place of secondment impractical.
4. To qualify for secondment to Europol for SSCs, a national expert must have at least three years of professional experience in the field of law enforcement which is relevant to the duties to be carried out in the context of SSCs. In exceptional cases, justified by the interest of the service, a professional experience of between one and three years may be considered as sufficient.

Europol Unclassified – Basic Protection Level

5. A secondment effected in accordance with Article 4(4) shall in no way confer an automatic right to (a) period(s) of active secondment.
6. Notwithstanding the possibility to authorise suspensions under Article 10(1), Europol may, in the letters exchanged in accordance with Article 4(4) or Article 10(3) where relevant, require, in agreement with the seconding authority, suspension(s) of the period of active secondment during which the SNE will return to his seconding authority. In this case, the letters exchanged shall specify that any suspension may have a maximum duration of three years and that, otherwise, the secondment shall be considered terminated automatically by the last day of the third year of the suspension, notwithstanding the possibilities of termination of secondment laid down in Article 11. The maximum duration of the period of active secondment preceding the suspension shall be specified in the said letters. During such suspension(s), Europol may suspend the insurance coverage against the risk of accident in deviation from Article 12(2).

Article 28 Working conditions

1. By way of derogation from Article 15(1), SNEs seconded for SSCs may make use of their annual leave at any time during their period of active secondment.
2. By way of derogation from Article 15(3), for any period of active secondment, the duration of which is less than twelve months, SNEs seconded for SSCs may be granted one day of *ad-hoc* leave by Europol to visit their seconding authority. The maximum amount of *ad-hoc* leave that can be granted shall not exceed two days per period(s) of active secondment of twelve consecutive months.
3. Where the period of active secondment of SNEs seconded for SSCs is foreseen to be suspended in accordance with Article 27(6), the entitlement to annual leave shall be calculated *pro rata*, on the basis of the duration of the period of active secondment preceding the suspension. The entitlement to annual leave shall be calculated anew for each period of active secondment.
4. In light of the short duration of the active secondments, Article 16 shall not apply to SNEs seconded for SSCs, whose active secondment shall be suspended during maternity leave.
5. SNEs seconded for SSCs whose period of active secondment is subject to suspension(s) according to Article 27(6) shall not be subject to the periodical reports foreseen by Article 17(1). Instead, their ability, efficiency and conduct shall be assessed at the end of their secondment and a copy of the report thereof be transmitted to the SNE's seconding authority. Upon request of the SNE's seconding authority, Europol may provide earlier contributions regarding the SNE's ability, efficiency and conduct in the context of any national assessment procedure.
6. By way of derogation from Article 22, the trainings offered to SNEs seconded for SSCs shall be limited to in-house training activities designed for newcomers.

Europol Unclassified – Basic Protection Level

Article 29

Travel expenses from place of origin to place of long-stay mission

1. As regards cost-free SNEs seconded for SSCs, in cases justified by the interests of the service, Europol shall reimburse the travel expenses between the place of origin as defined in Article 1(g) and the place of long-stay mission at the beginning and end of each period of active secondment, which follows a suspension in accordance with Article 27(6). Article 20, paragraphs 2 to 4 shall apply by analogy.
2. The mission commencing or ending by such travel shall be considered to start or end when leaving from or arriving at the place of origin.

CHAPTER V

SNEs seconded short-term

Article 30

General principles and definitions

1. The provisions of this Decision shall apply to SNEs seconded short-term, unless stipulated otherwise in this Chapter.
2. "SNEs seconded short-term" shall mean SNEs seconded for the purpose of carrying out the duties set out in the letters exchanged in accordance with Article 4(4) or 10(3) where relevant. They shall consist *inter alia*, of persons with highly specialised expertise not readily available in Europol or the Member State concerned, or persons with unique knowledge in particular investigations.

Article 31

General provisions

1. By way of derogation from Article 5(1), the initial period of active secondment of SNEs seconded short-term shall not exceed six consecutive months. Any extension(s) shall not exceed a period of six consecutive months. The total duration of periods of active secondment of SNEs seconded short-term, including any extension(s), shall not exceed twelve consecutive months.
2. The place of secondment of SNEs seconded short-term shall be at the seat of Europol. Long-stay missions of the SNE to any place within or outside the European Union shall not be regarded as changing the place of secondment.
3. Their duty to reside at the place of secondment according to Article 8(1)(g) may be waived by Europol in cases where the SNE participates, during his period of active secondment, in (repeated) long-stay missions which would render a residence at the place of secondment impractical.

Europol Unclassified – Basic Protection Level

4. A secondment as an SNE seconded short-term effected in accordance with Article 4(4) shall in no way confer an automatic right to (a) period(s) of active secondment.
5. Notwithstanding the possibility to authorise suspensions under Article 10(1), Europol may, in the letters exchanged in accordance with Article 4(4) or Article 10(3) where relevant, require, in agreement with the seconding authority, suspension(s) of the period of active secondment during which the SNE will return to his seconding authority. In this case, the letters exchanged shall specify that any suspension may have a maximum duration of three years and that, otherwise, the secondment shall be considered terminated automatically by the last day of the third year of the suspension, notwithstanding the possibilities of termination of secondment laid down in Article 11. During such suspension(s), Europol may suspend the insurance coverage against the risk of accident in deviation from Article 12(2).
6. Where consecutive periods of active secondment of the SNE seconded short-term - on the basis of the letters to be exchanged in accordance with Article 4(4) or Article 10(3) - amount to 12 months, a 6-month absence period shall be imposed before any further active secondment as an SNE seconded short-term.
7. By way of derogation from the second sentence of Article 9(1), the seconding authority does not need to supply Europol with a statement of the expert's employment where he has been seconded to Europol previously and not more than a year has elapsed since the end of the previous secondment.

Article 32 Working conditions

1. By way of derogation from Article 15(1), SNEs seconded short-term may make use of their annual leave at any time during their period of active secondment.
2. By way of derogation from Article 15(3), for any period of active secondment for up to 6 months, SNEs seconded short-term may be granted one day of *ad-hoc* leave by Europol to visit their seconding authority. The maximum amount of *ad-hoc* leave that can be granted shall not exceed two days per periods of active secondment of twelve consecutive months.
3. Where the period of active secondment of SNEs seconded short-term is foreseen to be suspended in accordance with Article 31(5), the entitlement to annual leave shall be calculated *pro rata*, on the basis of the duration of the period of active secondment preceding the suspension. The entitlement to annual leave shall be calculated anew for each period of active secondment.
4. In light of the short duration of the active secondments and the purpose of secondments under this Chapter, Article 16 shall not apply to SNEs seconded short-term, whose active secondment shall be suspended during maternity leave.

Europol Unclassified – Basic Protection Level

5. SNEs seconded short-term shall not be subject to the periodical reports foreseen by Article 17(1) after each period of active secondment. Instead, their ability, efficiency and conduct shall be assessed at the end of their secondment and a copy of the report thereof be transmitted to the SNE's seconding authority. Upon request of the SNE's seconding authority, Europol may provide earlier contributions regarding the SNE's ability, efficiency and conduct in the context of any national assessment procedure.
6. By way of derogation from Article 22, the trainings offered to SNEs seconded short-term shall be limited to in-house training activities designed for newcomers.

Article 33

Travel expenses from place of origin to place of long-stay mission

1. As regards SNEs seconded short-term, in cases justified by the interests of the service, Europol shall reimburse the travel expenses between the place of origin as defined in Article 1(g) and the place of long-stay mission at the beginning and end of each period of active secondment. Article 20, paragraphs 2 to 4, shall apply by analogy.
2. The mission commencing or ending by such travel shall be considered to start or end when leaving from or arriving at the place of origin.

CHAPTER VI Final provisions

Article 34 Delegation

1. The Executive Director may delegate the powers devolved to him pursuant to this Decision to one or more Deputy Executive Directors.
2. The seconding authority concerned shall enjoy a close working relationship with Europol throughout the SNE's period of active secondment. All correspondence and contacts between the SNE's seconding authority, particularly those referred to in this Decision, shall be made via the ENU concerned.

Article 35 Entry into force

Europol Unclassified – Basic Protection Level

1. The Decision of the Management Board of Europol of 5 October 2021 laying down rules on the secondment of national experts to Europol²⁴ is hereby repealed with the exception of Article 35(1) thereof, which remains applicable to SNEs whose secondment to Europol started before 10 October 2019, until the end of their ongoing secondment.
2. This Decision shall enter into force on the day following its publication in the Europol *Vademecum*.

Done at The Hague on 21 March 2023



Jérôme Bonet
Chairperson of the Management Board

²⁴ EDOC#1170768v16.