



Committee of the Regions

DECISION No 438/2015

on the rules applicable to national experts seconded to the
European Committee of the Regions

THE SECRETARY-GENERAL OF THE EUROPEAN COMMITTEE OF THE REGIONS,

HAVING REGARD TO the Treaty on the Functioning of the European Union,

HAVING REGARD TO Decisions No 164/10 and No 61/2013 of the European Committee of the Regions' Secretary-General on the rules applicable to national experts on secondment to the European Committee of the Regions,

WHEREAS:

- (1) Seconded national experts (SNEs) should enable the European Committee of the Regions (CoR) to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available;
- (2) It is thoroughly recommended that steps be taken to promote the exchange of professional experience and knowledge by temporarily assigning experts from Member States' administrations and public intergovernmental organisations (IGOs) to CoR departments, even for short periods;
- (3) In order to ensure that the CoR's independence is not compromised by private interests, it should be stipulated that SNEs must come from a national, regional or local public administration or an IGO. The secondment of an SNE by an employer other than a national, regional or local public administration or an IGO should be authorised only on a case-by-case basis, once it has been ascertained that the SNE's employer is part of the public sector or is an independent university or research organisation that does not seek to make profits for redistribution;
- (4) In order to avoid any conflict of interests, the rights and obligations of SNEs, as set out in this decision, should ensure that they carry out their duties solely in the interests of the CoR;
- (5) In order, on the one hand, to ensure optimal management of the CoR's financial resources and, on the other, not to have to forego collaboration with SNEs because of budgetary constraints, the possibility is to be created for national experts to be seconded without the CoR having to cover the associated costs;

WHEREAS it is in the interests of the institution to amend Decisions No164/10 and No 61/2013,

HAS ADOPTED THE FOLLOWING DECISION:

Chapter I

GENERAL PROVISIONS

Article 1

Scope

1. These rules apply to national experts seconded to the CoR, hereinafter referred to as "SNEs". SNEs are employees of a national, regional or local public administration or an IGO, who are seconded to the CoR so that it can use their expertise in a particular field. The secondment of an SNE by an employer other than a national, regional or local public administration or an IGO may be authorised only on a case-by-case basis, once it has been ascertained that the SNE's employer is part of the public sector or is an independent university or research organisation that does not seek to make profits for redistribution.

For the purposes of this decision, public administration means all state administrative services at central, federal, regional and local level, comprising ministries, government and parliament services, the courts, central banks, and the administrative services of local and regional authorities, as well as the decentralised administrative services of the state and its local authorities. Also included in the above group are public sector bodies such as independent university and research organisations that do not seek to make profits for redistribution.

2. The persons covered by these rules must have worked for their employer on a permanent or contract basis for at least 12 months before their secondment and remain in the service of that employer throughout the period of secondment. SNEs' employers shall thus undertake to continue to pay their salaries, maintain their administrative status throughout the period of secondment, cover all their social security and pension contributions and benefits and inform the CoR Secretary-General of any change in an SNE's situation in this regard.
3. Except where the Secretary-General grants a derogation, SNEs must be nationals of a Member State. The CoR, when employing SNEs, shall ensure compliance with the principle of equal opportunities, in accordance with the principles set out in Articles 1(d) and 27 of the Staff Regulations.

Article 2

Seconded national experts without costs

1. For the purposes of this decision, "SNEs without costs" are SNEs for whom the CoR will pay none of the allowances provided for under Article 16, nor any of the expenses provided for under Article 18.
2. The other provisions of this decision fully apply.
3. Unless express reference is made to SNEs without costs, this decision applies systematically to all the categories of experts set out in Articles 1 and 2 above.

Article 3
Selection procedure

1. SNEs are selected in an open, transparent procedure, based on a) unsolicited applications registered in a database managed by the recruitment department and b) an interview aimed, inter alia, at checking that the conditions stipulated in Article 8 are met.
2. Before launching a recruitment procedure, the Secretary-General must have authorised the directorate concerned to make use of an SNE's services, even where there are no costs. The directorate concerned must also have checked the availability of the necessary budgetary resources (except for SNEs without costs).
3. For the selection of future SNEs, applications may also be forwarded by permanent representations or, if appropriate, by the IGO administrations concerned. In this case, applicants are asked by the relevant CoR department to register in the database available on the CoR internet site.
4. Secondment shall be authorised by the CoR Secretary-General and set up by means of an exchange of letters between the latter and either the permanent representation of the Member State concerned or, if appropriate, the IGO administration. The letter shall contain, inter alia, the dates envisaged for the secondment as well as a description of the tasks likely to be assigned to the SNE. Any extension of the period of secondment shall be the subject of a new exchange of letters. Where appropriate, this exchange of letters shall mention the fact that the national expert concerned is seconded without costs, within the meaning of Article 2, and that Articles 16 and 18 do not apply.
5. A copy of the rules applicable to SNEs on secondment to the CoR shall be attached to the exchange of letters.
6. Under Article 52 of the Staff Regulations, the retirement age of officials is set at 66. By analogy, no seconded national expert may remain beyond the age of 66 during a secondment.

Article 4
Period of secondment

1. The initial period of secondment may not be less than six months or more than two years. The secondment may be renewed once or more, up to a total period not exceeding four years. The Secretary-General may, on an exceptional basis, at the request of the directorate concerned and where the interests of the institution so warrant, authorise one or several extensions to the secondment of up to a maximum of two years after the end of the four-year period referred to above.
2. The intended period of secondment shall be set at the outset in the exchange of letters provided for in Article 3(4) above.

3. At the end of the period referred to in Article 4(1) above, an SNE who has already been seconded to the CoR may be seconded again under the following conditions:
 - a) The SNE must continue to meet the conditions for secondment;
 - b) A minimum period of six years should pass between the end of the secondment referred to in Article 4(1) and any new secondment;
 - c) If, at the end of the period referred to in Article 4(1), the SNE receives a contract to work at the CoR, the six-year period shall begin at the end of this contract.

The six-year period referred to in Article 4(3)(b) above shall not apply when previous secondments amount to less than the total period set out in Article 4(1). In that case, the new secondment shall not exceed the unexpired part of the total period authorised.

Article 5

Tasks

1. SNEs shall assist CoR officials or temporary staff and carry out the tasks assigned to them. They may not perform middle or senior management duties, even when deputising for their immediate superior.
2. Under no circumstances may an SNE represent the CoR on his/her own with a view to entering into commitments, be they financial or otherwise, or negotiating on its behalf.
3. The CoR shall remain solely responsible for approving the results of any tasks performed by SNEs and for signing any official documents arising from them.

Article 6

Conflicts of interest

1. The CoR departments concerned, 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.
2. The agreement of the permanent representation concerned constitutes a declaration that there are no conflicts of interest involved. SNEs are nevertheless bound to declare to the CoR administration any potential conflict of interest which might emerge during their secondment.
3. Employers and SNEs shall undertake to notify the CoR Secretary-General immediately of any change of circumstances during secondments, which might give rise to such conflict. The Directorate for Human Resources and Finance, which must be systematically informed of any situation of this type, shall retain a copy of any communication on this subject between the employer, SNE and the CoR Secretary-General, and shall make this available to the latter on request.

4. Where an SNE does not comply with the requirements incumbent upon SNEs under Article 5(2) and (3), the CoR may, on the basis of Articles 6 and 7(1), (2) and (3) of this decision, terminate the SNE's secondment, in keeping with Article 10 below.

Article 7
Rights and obligations

1. During their secondment:
 - a) SNEs shall carry out their duties and conduct themselves solely with the interests of the CoR in mind. They shall neither seek nor take instructions from any government, authority, organisation or person outside the CoR. They shall carry out the duties assigned to them objectively, impartially and in keeping with their duties of loyalty to the CoR.
 - b) SNEs wishing to engage in an outside activity, whether paid or unpaid, or carry out any assignment outside the CoR shall be subject to the CoR's rules on prior authorisation for officials¹. The department concerned shall consult the SNE's employer before issuing authorisation.
 - c) SNEs shall refrain from any action, and in particular any public expression of opinion, which may reflect on their position at the CoR, and from any form of psychological or sexual harassment, by analogy with the corresponding provisions in the Staff Regulations;
 - d) SNEs who, in the performance of their duties, are called upon to give a decision on the handling or outcome of a matter in which they have a personal interest that could impair their independence, shall inform their immediate superior;
 - e) SNEs shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.
 - f) SNEs have the right to freedom of expression, with due regard for the principles of loyalty and impartiality.
 - g) All rights in any work done by SNEs in the performance of their duties shall be the property of the European Union;
 - h) SNEs shall reside at the place of secondment or at no greater distance therefrom than is compatible with the proper performance of their activities;
 - i) SNEs shall assist and tender advice to the superior to whom they are assigned and shall be responsible to their superior for the performance of the duties entrusted to them;
 - j) SNEs shall take no instruction from their employers. They shall not undertake any activities for their employers, nor for any other person, private company or public administration.
2. Both during and after their secondment, SNEs shall exercise the greatest discretion with regard to all facts and information of which they become aware in the course of or in connection with the performance of their duties. They shall not in any form whatsoever disclose to any unauthorised person any document or information not already lawfully made public, nor shall they use it for personal gain.

¹

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

3. Any lack of compliance with the provisions set out in Articles 7(1) and (2) above in the course of a secondment may lead the CoR to terminate an SNE's secondment, in line with Article 10 of this decision.
4. After termination of their secondment, SNEs shall continue to be bound by the duty to behave with integrity and discretion as regards the exercise of new tasks assigned to them and the acceptance of certain appointments or benefits.

Article 8

Professional experience and knowledge of languages

1. In order to be seconded to the CoR, SNEs must have at least three years' full-time experience of administrative, scientific, technical, advisory or supervisory functions.
2. SNEs must be able to prove that they have a thorough knowledge of one EU language and a satisfactory knowledge of a second language, for the performance of their duties. Any department wishing to recruit an SNE shall confirm in the assessment summary that it has checked the language skills of the person concerned at the preliminary interview and that this person's skills are adequate for carrying out the tasks assigned to him/her.

Article 9

Breaks in periods of secondment

1. The CoR may authorise breaks during secondments and specify the terms applicable. During such breaks:
 - a) the payments referred to in Article 16 are not made;
 - b) the travel expenses referred to in Article 18 shall be payable only if the break is at the CoR's request.

Article 10

Termination of secondment

1. Secondments may be terminated at the request of the CoR or the SNE's employer, provided three months' notice is given. It may also be terminated at the SNE's request, provided the same notice is given and subject to the CoR's and employer's agreement.
2. Notwithstanding the provisions set out in Article 10(1), a secondment may be terminated without prior notice:
 - a) by an SNE's employer, if the employer's essential interests so require (where warranted in the interests of the service);
 - b) by agreement between the CoR and the employer, at the request of an SNE addressed to both parties, if the personal or professional interests of the SNE so require;
 - c) by the CoR, should an SNE not comply with the obligations incumbent upon him/her as set out in this decision;

d) by the CoR, for budgetary reasons.

Should a secondment be terminated under point c) above, the CoR shall inform the employer and the SNE immediately.

Chapter II WORKING CONDITIONS

Article 11 Social security

1. Prior to secondment, SNE applicants shall provide the CoR administration with proof that the national, regional or local public administration or IGO for whom they work i) certifies that during the secondment they shall remain covered by the social security legislation applying to that organisation and ii) shall cover any social security expenses incurred abroad.
2. As of the day SNEs begin their secondment, they shall be insured against accidents. The relevant department shall supply SNEs with a copy of the provisions applying during the secondment.

Article 12 Working hours

1. SNEs shall be subject to the rules on working hours applying to officials and other staff at the CoR².
2. SNEs shall serve on a full-time basis throughout the period of secondment.

Article 13 Absence due to sickness

1. SNEs shall be subject to the rules on absence due to sickness applying to officials and other staff at the CoR³.

In the event of absence from work due to sickness or accident, SNEs shall notify the relevant head of unit as soon as possible, stating their address at that time. SNEs shall produce a medical certificate if absent for more than three days and may be required to undergo a medical examination arranged by the CoR.

² Article 55 of the Staff Regulations and the implementing provisions for this article apply *mutatis mutandis*.

³ Articles 59 and 60 of the Staff Regulations and the implementing provisions for this article apply *mutatis mutandis*.

2. If absences due to sickness or accident of not more than three days exceed a total of 12 days over any period of 12 months, SNEs shall be required to produce a medical certificate for any further absence due to sickness.
3. Where the period of sick leave exceeds three months or the period of service performed by the SNE concerned, whichever is the longer, the allowances referred to in Article 16(1) shall automatically be suspended. This provision shall not apply in the event of sickness linked to pregnancy.

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

4. SNEs who are the victim of a work-related injury occurring during the secondment shall continue to receive the allowance in full throughout the period during which they are unfit for work, up to the end of the secondment.

Article 14 ***Annual and special leave***

1. SNEs shall be subject to the rules on annual and special leave applying to officials and other staff at the CoR⁴.
2. Leave is subject to prior authorisation by the department to which the SNE is assigned. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, allowances shall not be paid.
3. Upon a duly substantiated request by an SNE's employer, up to two days of paid special leave in a 12-month period may be granted by the CoR. Applications are considered on a case-by-case basis.
4. Days of annual leave not taken by the end of the secondment shall be forfeited.

Article 15 ***Maternity leave***

1. SNEs shall be subject to the rules on maternity leave applying to officials and other staff at the CoR. While on maternity leave, SNEs shall receive the subsistence allowances provided for under Article 16⁵.
2. Where the rules to which an SNE's employer is subject provide for a period of maternity leave longer than that granted by the CoR, the secondment may, at the SNE's request, be interrupted for the period by which that maternity leave exceeds that granted by the CoR under Article 9 of this decision.

⁴ Article 57 and Annexe V of the Staff Regulations apply *mutatis mutandis*.

⁵ Article 58 of the Staff Regulations and the implementing provisions for this article apply *mutatis mutandis*.

A period equivalent to the break may be added to the end of the secondment if the interests of the CoR warrant this. Any change in the length of the secondment over that which was initially planned shall require a new exchange of letters between the CoR and the permanent representation of the SNE's Member State.

3. SNEs may, as an alternative, apply for a break in the secondment to cover the sum of the periods allowed for maternity leave. In that case, the second subparagraph of Article 15(2) shall apply.

Chapter III ALLOWANCES AND EXPENSES

Article 16 Allowances

1. SNEs shall be entitled, throughout the period of secondment, to a daily allowance and, possibly, a monthly subsistence allowance, in accordance with the conditions set out below.
2. Where SNEs meet the criteria for granting an expatriation allowance to officials under Article 4(1) (a) and (b) of Annex VII to the Staff Regulations, the daily allowance shall be EUR 128.67.
3. If the criteria referred to in the preceding paragraph are not met, the daily allowance shall be EUR 32.18.
4. SNEs who meet the criteria referred to in Article 4(1) (a) and (b) of Annex VII of the Staff Regulations shall also be entitled to a monthly allowance throughout their secondment in accordance with the table below.

Geographical distance between place of origin and place of secondment (km) ⁶	Amount in EUR per month
0 – 150	0
151 > 300	82.70
301 > 500	147.04
501 > 800	238.95
801 > 1300	385.95
1301 > 2000	606.54
> 2001	726.03

⁶

This distance is calculated at the time of the first secondment by applying the tools used by the European institutions.

5. SNEs who meet the conditions set out in Article 4(2) of Annex VII of the Staff Regulations for entitlement to an expatriation allowance shall receive a monthly allowance throughout their secondment, equivalent to a quarter of the amounts set out in the table above.
6. SNEs who do not meet the conditions for granting the allowances referred to in paragraphs 2 or 5 of this article are not entitled to the monthly allowance.
7. These allowances shall be payable for each day of the week, including periods of mission, annual leave, special leave and public holidays granted by the CoR.
8. The adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations shall apply automatically to the allowances granted to SNEs in the month following their adoption, without retroactive effect. The CoR's Directorate for Human Resources and Finance shall be responsible for implementing this provision and shall publish the new rate for allowances on the CoR's intranet site.
9. When starting the secondment, SNEs shall receive an advance equivalent to 75 days of allowances, whereupon entitlement to any further allowances shall cease during the corresponding period. If secondment to the CoR ends before expiry of the period taken into account for calculating the advance, the amount corresponding to the remaining part of that period may be claimed back by the CoR and SNEs shall be obliged to return the relevant sum of money.
10. These allowances are intended to cover all expenses associated with an SNE's secondment on a flat-rate basis, without prejudice to Articles 18 and 19. The allowances may in no circumstance be construed as remuneration paid by the CoR. Prior to any secondment, the permanent representation's agreement shall constitute the SNE employer's acceptance to maintain, throughout the secondment, the level of remuneration the SNE was receiving at the time he/she was seconded.
11. SNEs shall inform the Secretary-General of any payments received from other sources for this purpose. Any such amounts shall be deducted from the allowances paid by the CoR under Article 16(1).

Article 17

Place of origin, place of secondment

1. For the purposes of this decision, the place of origin shall be the main headquarters of the SNE's employer. The place of origin constitutes the reference for calculating the daily allowances and the monthly allowance.
2. The place of secondment shall be the location of the CoR department to which the SNE is posted, namely Brussels.

Both places shall be identified in the exchange of letters referred to in Article 3(4) of this decision.

Article 18
Travel expenses⁷

1. SNEs shall be entitled to reimbursement of their (and only their) travel expenses between their place of origin and place of secondment, as set down in Article 17, at the beginning and end of their secondment.

Travel expenses shall be reimbursed in accordance with the rules and conditions applying to officials and other staff at the CoR.

2. By way of derogation from Article 18(1), SNEs proving that at the end of their secondment they will be posted to a place other than their place of origin shall be entitled to the reimbursement of travel costs to that place. However, this reimbursement may not exceed the amount that would have been paid had the SNE returned to his/her place of origin.
3. The CoR shall not reimburse any expenses referred to in the preceding paragraphs if they are being met by the employer or any other body. The SNE shall inform the Directorate for Human Resources and Finance to this end.

Article 19
Missions and mission expenses

1. SNEs may be sent on missions subject to Article 5 of this decision.
2. Mission expenses shall be reimbursed in accordance with the relevant rules and conditions at the CoR.

Article 20
Training

1. SNEs shall be entitled to attend training courses organised by the CoR if the interests of the CoR so warrant. The interests of SNEs in attending such training, in particular in the light of their professional career following secondment, shall be considered when a decision is taken on whether to permit attendance.
2. Without prejudice to Article 14(3) of this decision, an SNE may be authorised to participate in training courses organised by their employer provided that these are compatible with the needs of the CoR department to which they have been seconded. To this end, the CoR may grant up to three days of paid special leave in a 12-month period. The CoR shall not grant travelling time or make a financial contribution to the enrolment fees. Applications shall be considered on a case-by-case basis.

⁷

This article shall not apply to SNEs without costs.

Article 21
Administrative provisions

SNEs shall report to the working conditions unit on the first day of the secondment to complete the relevant administrative formalities. They shall take up their duties on either the first or the sixteenth of the month.

Chapter IV
FINAL PROVISIONS

Decision No 61/2013 of the European Committee of the Regions' Secretary-General on the rules applicable to national experts on secondment to the European Committee of the Regions is hereby replaced by this decision, which shall apply to any secondment commencing as of the date on which this decision enters into force, including extensions. Decisions No 164/2010 and 61/2013 shall nevertheless continue to apply for secondments *already under way* before the entry into force of this decision.

This decision shall enter into force on 1 October 2015.

Done at Brussels on 26 August 2015,

(signed)

Jiří Buriánek
