

**DIR/2009/259**

**Cedefop decision laying down rules
on the secondment to Cedefop of national experts**

THE GOVERNING BOARD,

Having regard to the Council Regulation (EC) No 337/75 of 10 February 1975¹ establishing Cedefop,

Taking into account the Commission Decision of 12.11.2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training (C(2008) 6866 final),

Whereas:

- (1) Seconded national experts (SNEs) should enable Cedefop to benefit from the high level of their professional knowledge and experience, in particular in areas where such expertise is not readily available.
- (2) It is highly desirable to foster the exchange of professional experience in, and knowledge of, European policies by temporarily assigning experts from the administrations of the EU Member States as well as from Norway and Iceland to Cedefop.
- (3) In order to ensure that Cedefop's independence is not compromised by private interests, SNEs must come from a national, regional or local public administration, from an international organisation (IO) or from an employers' or employees' organisation. The secondment of an SNE by an employer other than the aforementioned 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 Cedefop.
- (5) In view of their special status, it should be stipulated that SNEs acting alone will not exercise any of the responsibilities that belong to Cedefop by virtue of the powers conferred upon it.

¹ As last amended by Council Regulation EC No. 2051/2004.

- (6) It is desirable to consolidate 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 in line with the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities, but without actually assimilating SNEs to these categories.

HAS ADOPTED THIS DECISION:

Chapter I

General provisions

Article 1

Scope and definitions

1. These Rules shall apply to national experts seconded to Cedefop (hereinafter referred to as SNEs or seconded national experts).

Seconded national experts are staff employed by a national, regional or local public administration, an IO, an employers' or employees' organisation who are seconded to Cedefop so that it can use their expertise in a particular field.

For the purposes of this Decision, the public administration means all State administrative services at central, federal and regional level, comprising ministries, government and parliament services, the courts, central banks, and the administrative services of local authorities, as well as the decentralised administrative services of the State and of such authorities.

The persons covered by these Rules must have worked for their employer on a permanent or contract basis for at least 12 months before their secondment and shall remain in the service of that employer throughout the period of secondment.

The SNE's employer shall thus undertake to continue to pay his salary, to maintain his administrative status (permanent official or contract staff member) throughout the period of secondment and to inform the Human Resources (HR) Service of Cedefop of any change in the SNE's situation in this regard. The SNE's employer shall also continue to be responsible for all his social rights, particularly social security and pension. The termination of, or change in, the SNE's administrative status (permanent official or contract staff member) may lead to the termination of his secondment by Cedefop, without notice, in accordance with Article 10(2)(c).

2. The Director may, on a case-by-case basis, authorise the secondment of an SNE from an employer other than the bodies listed under Article 1.1 sub-paragraph 2 if the interests of Cedefop warrant bringing in specific expertise as a temporary measure, provided that the SNE's employer:
 - is an independent university or research organisation which does not set out to make profits for redistribution; or
 - is in fact part of the public sector.

For the purposes of this Decision, to qualify as being part of the public sector the SNE's employer must meet all the following conditions:

- it must be attached to a public administration, as defined in paragraph 1, and specifically it must have been created by legislation or regulation;
 - its resources must come primarily from public funding;
 - any activities in which it competes against other private or public entities on the market must represent less than half of its activities.
3. Except where the Director grants a derogation, an SNE must be a national of an EU Member State or Norway and Iceland or of a country with which the Council has decided to open accession negotiations.
 4. When a secondment is being planned, Cedefop will also consider as appropriate the geographical and gender balance and compliance with the principle of equal opportunities, in accordance with the principles set out in Article 1d and Article 27 of the Staff Regulations.
 5. Any reference in these Rules to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice-versa, unless the context clearly indicates otherwise.

Article 2

Cost-free seconded national experts

- 1 For the purposes of this Decision, “cost-free SNEs” means SNEs for whom Cedefop 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 secondment (e.g. missions).
- 2 Cost-free SNEs may be seconded from the public administration, as defined in Article 1(1), of an EU Member State which has concluded a specific agreement with Cedefop on staff secondments, from an IO or from an employers’ or employees’ organisation, as part of an agreement and/or exchange programme with Cedefop.
3. Cost-free SNEs shall be taken into account in Cedefop's annual decision on the final allocation of human resources and decentralised administrative expenditure.

Article 3

Selection procedure

1. SNEs shall be selected according to a transparent procedure organised by Cedefop or through direct agreements with the employers, who will select the SNE internally.
2. The secondment is effected by an exchange of letters between the Directorate and the representative from the sending organisation.

Article 4

Period of secondment

1. The initial period of secondment may not be less than six months or more than two years. It may be renewed once or more, up to a total period not exceeding four years. Exceptionally, at the request of the Area concerned and where the interests of the service warrant it, the Director may authorise one or more extensions of the secondment for a maximum of two additional years at the end of the four-year period.
2. The initial duration of the secondment shall be specified in the exchange of letters referred to in Article 3(2). Any extension of the period of secondment shall be the subject of a new exchange of letters.
3. An SNE who has already been seconded to Cedefop may be seconded to it another time subject to the internal rules governing the maximum length of time such persons may spend in Cedefop departments, and subject further to the following conditions:
 - a) the SNE must continue to meet the conditions for secondment;
 - b) a period of at least six years must have elapsed between the end of the previous period of secondment and the new secondment; if at the end of the previous secondment the SNE received an employment contract with Cedefop, the duration of that contract or secondment shall be taken into account when calculating the six-year period referred to above.

Article 5

Place of secondment

The place of secondment is Thessaloniki.

Article 6

Tasks

1. SNEs shall assist Cedefop officials or temporary staff. They may not perform middle or senior management duties, even when deputising for their immediate superior.
2. The Head of Area may authorise 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.

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

3. Cedefop shall remain solely responsible for approving the results of any tasks performed by an SNE and for signing any official documents arising from them.
4. Cedefop's Areas concerned, the SNE's employer and the SNE must ensure that there is no conflict of interest in relation to the SNE's duties while seconded to Cedefop.

For this purpose, the Area to which the SNE is to be seconded shall inform the SNE and his employer - via the HR service of Cedefop - before the start of the secondment about the intended duties and ask them to confirm in writing that they do not know of any reason why the SNE should not be assigned to those duties.

The employer and the SNE shall also undertake to inform the HR service of Cedefop of any change of circumstances during the secondment which could give rise to any such conflict.

The HR service shall keep a copy of all such exchanges of correspondence in its records.

5. Failure on the part of the SNE to comply with his obligations arising from paragraphs 2, 3 or 4 shall entitle Cedefop, if it sees fit, to terminate the secondment of the SNE pursuant to Article 10(2)(c).

Article 7

Rights and obligations

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

- b) An SNE wishing to engage in an outside activity, whether paid or unpaid, or to carry out any assignment outside Cedefop shall be subject to Cedefop's rules on prior authorisation for Cedefop staff.
- c) The SNE shall refrain from any action or behaviour which might reflect adversely upon his position and from any form of psychological or sexual harassment.
- d) The SNE shall not, in the performance of his duties, deal with a matter in which, directly or indirectly, he has any personal interests such as to impair his independence, and, in particular, family and financial interests. If he has occasion in the performance of his duties to deal with such a matter, he shall immediately inform his Head of Area and the HR service so that appropriate measures can be taken.

The SNE may neither keep nor acquire, either directly or indirectly, in undertakings which are subject to the authority of Cedefop or which have dealings with Cedefop, any interests of such kind or magnitude as might impair his independence in the performance of his duties.

The SNE shall declare any gainful activity performed in a professional capacity by his spouse, as defined by the Staff Regulations.

- e) The SNE shall refrain from any unauthorised disclosure of information received in the line of duty, unless that information has already been made public or is accessible to the public.
- f) The SNE has the right to freedom of expression, with due regard for the principles of loyalty and impartiality.

The SNE who intends to publish or cause to be published, whether alone or with others, any text on a matter relating to the work of Cedefop shall seek prior authorisation from the Director in line with the applicable Cedefop rules.

- g) All rights in any work done by the SNE in the performance of his duties shall be the property of Cedefop.
- h) The SNE shall reside at the place of secondment or at no greater distance therefrom as is compatible with the proper performance of his activities.
- i) Based on his professional knowledge and experience, the SNE shall assist and tender advice to the superiors in Cedefop to whom he is assigned and shall be responsible to his superiors for performance of the tasks entrusted to him.

Failure to comply with any of the provisions of paragraph 1 during the period of secondment shall entitle Cedefop, if it sees fit, to terminate the SNE's secondment pursuant to Article 10(2)(c).

2. At the end of the secondment the SNE shall continue to have a duty of loyalty to Cedefop and be bound by the obligation to act with integrity and discretion in the

exercise of new duties assigned to him and in accepting certain posts or advantages.

Article 8

Professional experience and knowledge of languages

1. To qualify for secondment to Cedefop a national expert must have at least three years' experience of administrative, legal, scientific, technical, advisory or supervisory functions which can be regarded as equivalent to those of function groups AD or AST – this latter function group being taken into consideration only for highly specialised job profiles – as defined in the Staff Regulations of Officials and the Conditions of Employment of Other Servants of the European Communities.
2. The SNE must produce evidence of a thorough knowledge of one of the Community languages and a satisfactory knowledge of another Community language to the extent necessary for the performance of his duties. An SNE from a non-member country must produce evidence of a thorough knowledge of one Community language necessary for the performance of his duties.

Article 9

Suspension of secondment

1. At the written request of the SNE or his employer, and with the latter's agreement, Cedefop may authorise suspensions of periods of secondment and specify the terms applicable. During such suspensions:
 - a) the subsistence allowances referred to in Article 17 shall not be payable;
 - b) the travel expenses referred to in Article 20 shall not be payable.
2. The period of suspension shall not be counted in the period of secondment as defined in Article 4.

Article 10

Termination of periods of secondment

1. Subject to paragraph 2, the SNE's secondment may be terminated at the request of Cedefop or the SNE's employer, subject to three months' notice, or at the SNE's request, subject to the same period of notice and with the agreement of Cedefop and the SNE's employer.
2. In exceptional circumstances the secondment may be terminated without notice:
 - a) by the SNE's employer, if the employer's essential interests so require;
 - b) by Cedefop and the employer acting jointly, at the request of the SNE addressed to both parties, if the SNE's personal or professional interests so require;

- c) by Cedefop in the event of failure by the SNE or his employer to respect their obligations under this Decision. Cedefop shall immediately inform the SNE and his employer accordingly.

Chapter II

Working conditions

Article 11

Social security

1. Before the period of secondment begins, the employer of the SNE shall certify that the SNE will remain, throughout the period of secondment, subject to the applicable social security legislation including for expenses incurred abroad. To this end, the SNE's employer shall provide Cedefop with the certificate referred to in Article 11(1) of Council Regulation (EEC) No 574/72.
2. From the day on which their secondment begins, SNEs shall be covered by Cedefop against the risk of accident. Cedefop shall provide them with a copy of the terms of this cover on the day on which they report to the HR service to complete the administrative formalities related to the secondment.
3. An SNE who cannot be covered by a public sickness insurance scheme must ensure the risk privately.

Article 12

Working hours

1. The working hours for SNEs shall be the same as those in force at Cedefop.
2. An SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request submitted by the SNE and endorsed by the Head of Area the Director may allow an SNE to work part time, provided the SNE's employer agrees and the arrangement is compatible with the smooth running of the Area to which the SNE is allocated. In such cases the allowances shall be paid pro-rata.
3. Articles 55, 56 and 56c of the Staff Regulations and the Cedefop provisions implementing these Articles shall apply mutatis mutandis.

Article 13

Sick leave

1. The rules in force at Cedefop on absence due to sickness or accident shall apply to SNEs.²
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 17 shall be automatically suspended.

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

3. SNEs who are the victim of a work-related injury which occurs during the secondment shall continue to receive the subsistence allowances in full throughout the period during which they are unfit for work. These allowances shall not, however, be paid beyond the end of the period of secondment.

Article 14

Annual and special leave

1. With the exception of the provisions relating to grade, the rules in force at Cedefop on annual and special leave, applicable to officials, shall apply to SNEs³.
2. Leave shall be subject to prior authorisation by the Area to which the SNE is seconded. In the event of unauthorised absence within the meaning of Article 60 of the Staff Regulations, subsistence allowances shall not be paid.
3. Upon a duly justified request from the SNE's employer, the SNE may be granted up to two days of special leave by Cedefop in a 12-month period to visit his employer.
4. Days of annual leave not taken by the end of the period of secondment shall be forfeited.

² Articles 59 and 60 of the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis

³ Articles 57 and 59a of and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply mutatis mutandis.

Article 15

Maternity leave

1. The rules in force at Cedefop on maternity leave shall apply to SNEs⁴. While on maternity leave the SNE shall receive the subsistence allowances referred to in Article 17.
2. Where the rules that are binding upon the SNE's employer provide for a period of maternity leave longer than that granted by Cedefop, the secondment may, at the SNE's request, be interrupted for the period by which that leave exceeds the leave granted by Cedefop.

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

3. An SNE may, as an alternative, apply for a break in the secondment to cover the sum of the periods allowed for maternity leave. In that case, the second subparagraph of paragraph 2 shall apply.

Chapter III

Salary reimbursement, allowances and expenses

Article 16

Reimbursement of salary

1. Irrespective of whether salary is reimbursed or not, the employer shall notify Cedefop of the gross annual salary paid to each seconded national expert. This information shall appear in the exchange of letters between Cedefop and the employer concerned.
2. If its interests so require and in light of budget availability, Cedefop may exceptionally reimburse up to 50% of the remuneration of an SNE with a maximum of the equivalent of the lowest grade and step in Cedefop's remuneration system for temporary agents (AST 1/1) per month during the period of secondment to his employer under an agreement to be concluded in advance between Cedefop and the administration concerned. Expenses resulting from reimbursement will be charged against the relevant item in Cedefop's budget in Title 1 or, where appropriate, the operational budget lines in Title 3.

⁴ Article 58 of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

Article 17

Subsistence allowances

1. SNEs shall be entitled, throughout the period of secondment, to a daily subsistence allowance and a monthly subsistence allowance, subject to the application of the weighting for Greece.

Daily and monthly allowances shall be adapted each year, without retroactive effect, in accordance with the adaptation of the basic salaries of officials of the European Community in Brussels and Luxembourg.

On the date of entry into force of this Decision:

- the daily subsistence allowance is be €122,97 subject to the weighting factor for Greece as mentioned above;
- the monthly subsistence allowance shall be paid in accordance with the following table subject to the weighting factor for Greece as mentioned above:

Distance between place of origin and place of secondment (km)	Amount in €
0 – 150	0
> 150	79.04
> 300	140.52
> 500	228.36
> 800	368.89
> 1300	579.68
> 2000	693.88

2. These subsistence allowances shall be granted under the same conditions as the expatriation allowance for officials.
3. In the case of cost-free SNEs, the exchange of letters referred to in Article 3(2) shall stipulate that these allowances will not be paid.
4. The adjustments to remuneration adopted by the Council pursuant to Article 65 of the Staff Regulations shall apply automatically to the subsistence allowances in the month following their adoption. The HR service shall be responsible for implementing this provision.

5. 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 Cedefop.

Before the secondment, the SNE's employer shall certify to the HR service that during the secondment it will maintain the level of remuneration the SNE was receiving at the time of his secondment.

The SNE shall inform the HR service of any allowance similar to the subsistence allowances paid by Cedefop received from other sources. This amount shall be deducted from the subsistence allowances paid by Cedefop.

6. Subsistence allowances shall be payable for every day of the week, including weekends, during periods of mission, annual leave, special leave and public holidays granted by Cedefop.
7. When the SNE starts the secondment, and if he so requests, the first 75 days of the subsistence allowances to which he is entitled shall be advanced in the form of a lump sum, and the allowances shall not be paid during the corresponding period. This lump sum shall be paid within 10 working days of the SNE taking up duties. If the secondment is ended during the first 75 days, the SNE shall return the amount corresponding to the remainder of that period.
8. Subsistence allowances shall be paid no later than the 25th day of each month.

Article 18

Reimbursement of school fees

In line with the decision of the Governing Board of 25 October 2007, SNEs are entitled to reimbursement for schooling fees under the same rules and regulations as applicable to Cedefop staff subject to the Staff Regulations.

Article 19

Place of origin

- 1 For the purposes of this Decision, "place of origin" means the place where the SNE performed his duties for his employer at the time of his secondment. The place of secondment shall be Thessaloniki. Both places shall be identified in the exchange of letters referred to in Article 3(2).
- 2 If, six months before his secondment to Cedefop as an SNE, a national expert already has his main residence in a place other than that in which the employer's headquarters is located, the place of origin shall be deemed to be whichever of the places is closer to the place of secondment.

Article 20

Travel expenses

- 1 SNEs, other than those seconded cost-free, shall be entitled to reimbursement of the cost of their travel between their place of origin and the place of secondment, as defined in Article 19, at the beginning and end of their secondment⁵.
- 2 Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at Cedefop.
- 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 secondment shall be entitled to reimbursement of the travel expenses to that new place under the conditions laid down in paragraph 2. However, this reimbursement may not be more than the amount that would have been paid had the SNE returned to his place of origin.
4. Cedefop shall not reimburse any expenses referred to in the preceding paragraphs if they have been met by the employer or any other body.

Article 21

Missions and mission expenses

1. SNEs may be sent on mission subject to Article 6.
2. Mission expenses shall be reimbursed in accordance with the relevant rules and conditions in force at Cedefop⁶.

Article 22

Training

SNEs shall be entitled to attend training courses organised by Cedefop if the interests of Cedefop 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.

⁵ Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*

⁶ Article 11 and 12 of Annex VII to the Staff Regulations and the Cedefop provisions implementing these Articles shall apply *mutatis mutandis*.

Article 23

Administrative provisions

SNEs shall report to the HR service the first day of secondment to complete the requisite administrative formalities. They shall take up duty on either the first or the sixteenth day of the month.

Chapter IV

Complaints

Article 24

Without prejudice to the possibilities for instituting proceedings after taking up his position, under the conditions and time limits laid down in Article 230 of the EC Treaty, any SNE may submit a complaint to the Director about an act adopted by Cedefop services under this Decision which adversely affects him, with the exception of decisions which are direct consequences of decisions taken by his employer.

The complaint must be lodged within two months. The period shall start to run on the date of notification of the decision to the person concerned, but in no case later than the date on which the latter received such notification. The Director 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.

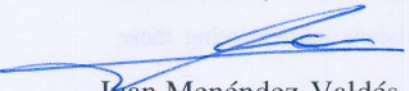
Chapter V

Entry into force

Article 25

1. This Decision shall take effect on the date of signature and applies both to SNEs already seconded to Cedefop at the date of effect and to SNEs seconded after the date of effect.
2. By derogation to Article 25(1), and where applicable, the removal costs and travel back for the family at the end of secondment are covered for SNEs in place before the date of effect of this Decision.
3. Cedefop's Decision concerning rules on the secondment of national experts to Cedefop of 6 April 2004 is hereby repealed.

Thessaloniki, 5 June 2009


Juan Menéndez-Valdés
Chairman of the Governing Board