



Sofia, 3 May 2018

EDOC# 950725v10

## **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/JHA<sup>1</sup> ("Europol Regulation") 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 laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 of 29 February 1968<sup>2</sup>,

Having regard to the Commission Decision C(2008) 6866 of 12.11.2008 laying down rules on the secondment to the Commission of national experts and national experts in professional training,

Having regard to the 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 travel ("Guide to missions and authorised travel") - and in particular its Annex - which become applicable to Europol by analogy on 2 July 2018,

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<sup>1</sup> OJ L 135, 24.5.2016, p. 53.

<sup>2</sup> OJ L 56, 4 March 1968, p. 1, as last amended by Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013, OJ L 287, 29 October 2013, p. 15.

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Whereas:

- (1) Seconded National Experts (SNEs) should enable Europol 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, international cooperation in the field of law enforcement by temporarily assigning to Europol, even for short periods, experts from the Member States.
- (3) 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.
- (4) 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.
- (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 Europol by virtue of the powers conferred upon it, unless specially empowered to do so in writing by the Executive Director of Europol.
- (6) 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 of Officials and the Conditions of Employment of Other Servants of the European Union, but without actually assimilating SNEs to these categories.
- (7) 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.
- (8) The Europol National Units (ENUs) play a crucial role in implementing this Decision and should therefore enjoy a particularly close working relationship with Europol.
- (9) 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 (SSCs) and reiterated this call on 10 March 2016.
- (10) The Management Board endorsed, on 12 May 2016, Europol's Operational Plan on Secondary Security Checks which allows the deployment of Seconded National Experts of the Member States to the hotspots in order to assist Europol in carrying out the Secondary Security Checks.
- (11) The use of Seconded National Experts 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.

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HAS ADOPTED THE FOLLOWING 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 authorities” shall mean, as defined in Article 2(a) of the Europol Regulation, all police authorities and other law enforcement services existing in the Member States which are responsible under national law for preventing and combating criminal offences as well as other public authorities existing in the Member States which are responsible under national law for preventing and combating criminal offences in respect of which Europol is competent;
- (c) “seconding authorities” shall mean all Member States’ competent authorities seconding staff to Europol in accordance with the provisions of this Decision;
- (d) “Seconded National Experts” or “SNEs” shall mean staff 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 expertise in a particular field;
- (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 secondment.
- (f) “Long-stay missions” are 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.

##### *Article 2* *Scope*

1. This Decision shall apply to SNEs seconded to Europol, including cost-free SNEs, as defined in Article 1 above.

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.

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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 that seconding authority throughout the period of secondment.

The seconding authority 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 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)(c).

4. An SNE must be a national of a Member State.
5. When a secondment is being planned, 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 of Officials of the European Union ("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 3*

#### *Cost-free Seconded National Experts*

1. Cost-free SNEs may be seconded in accordance with this Decision from the competent authorities as defined in Article 1.
2. The Executive Director of Europol 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 of Europol.<sup>3</sup>

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<sup>3</sup> Currently implemented by the Decision of the Director of 20 May 2016 on the selection procedure for Seconded National Experts (SNEs), EDOC #824568.

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2. Before the secondment, Europol must have been authorised to use SNEs in the annual budget and allocation of human resources.
3. Applications shall be forwarded by the Europol National Units (ENUs).
4. The secondment shall be authorised by the Executive Director of Europol and effected by an exchange of letters between the Executive Director and the seconding authority.

### *Article 5*

#### *Period of active secondment*

1. The total period of active secondment, including any extension, shall not exceed four years.
2. The initial duration of the secondment shall be fixed at the outset in the exchange of letters referred to in Article 4(4). 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 Europol may be seconded to it another time, subject to the following conditions:
  - a) the SNE must continue to meet the conditions for secondment;
  - b) a period of at least three years must have elapsed between the end of the previous period of active secondment and the new secondment; if at the end of the previous secondment the SNE received an employment contract with Europol, the duration of that contract shall be taken into account when calculating the three-year period referred to above.

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

### *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*

#### *Tasks*

1. SNEs shall assist Europol's temporary staff 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) taking into account the candidate's qualifications.

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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) 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 tasks. 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 staff member 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 of Europol 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 Executive Director of Europol shall give the SNE clear and specific written instructions on the position to adopt during the missions or meetings in question.

The Executive Director of Europol may delegate his power to derogate to the Deputy Executive Director or the Europol line manager of the Unit or Department of the SNE concerned.

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 tasks 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 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 secondment which could give rise to any such conflict.

The Human Resources Unit of Europol 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 shall be obtained in accordance with Article 67 of the Europol Regulation before the SNE is seconded.

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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)(c).

### *Article 8 Rights and obligations*

1. During the period of 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.
  - 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 agents<sup>4</sup>. Europol shall consult the SNE's seconding authority before issuing an authorisation. The engagement in an outside activity shall be 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 harassment<sup>5</sup>.
  - 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 will 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

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<sup>4</sup> Article 12b of the Staff regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

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

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- 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.
  - 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 tasks entrusted to him.
2. Both during and after the period of 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.
  3. Failure to comply with any of the provisions of this Article during the period of secondment shall entitle Europol to terminate the secondment of an SNE pursuant to Article 11(2)(c).

### *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 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 Regulation, with the understanding that the SNE will have to carry out his duties in a mainly English-speaking environment.

### *Article 10*

#### *Suspension of secondment*

1. At the written request of the SNE or his seconding authority, and with the latter's agreement, Europol may authorise suspensions of an active secondment and specify the terms applicable. During such suspensions:
  - a) the subsistence allowances referred to in Article 18 shall not be payable;

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- b) the travel expenses referred to in Article 20 shall be payable only if the break is at Europol's request.
2. The period of suspension shall not be counted in the period of active secondment as defined in Article 5.

### *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 authorised by the Executive Director of Europol and be effected by an exchange of letters between the Executive Director of Europol 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 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 seconding authority accordingly.

## **CHAPTER II**

### **Working conditions**

#### *Article 12*

#### *Social security*

1. Before the period of secondment begins, the seconding authority shall certify to Europol that the SNE will remain, throughout the period of 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 574/72<sup>6</sup>.
2. From the day on which their secondment begins, SNEs shall be covered by Europol against the risk of accident. Europol shall provide them with a copy of

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<sup>6</sup> OJ L 74, 27.3.1972, p.1.

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the terms of this cover on the day on which they report to the 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.<sup>7</sup>
2. The SNE shall serve on a full-time basis throughout the period of 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.

### *Article 14* *Sick leave*

1. The rules in force at Europol on absence due to sickness or accident shall apply to SNEs<sup>8</sup>.
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 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.

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<sup>7</sup> Articles 55, 56 and 56c of the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

<sup>8</sup> Articles 59 and 60 of the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

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### *Article 15 Annual and special leave*

1. The rules in force at Europol on annual and special leave applicable to temporary agents shall apply to SNEs,<sup>9</sup> 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 shall not be paid.
3. Upon a duly justified request from the SNE's seconding authority, the SNE may be granted up to two days of special leave by Europol in a 12-month period to visit his seconding authority.
4. Days of annual leave not taken by the end of the period of active secondment shall be forfeited.

### *Article 16 Maternity leave*

1. The rules in force at Europol on maternity leave shall apply to SNEs<sup>10</sup>. While on maternity leave the SNE 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 secondment may, at the SNE's request, be interrupted for the period by which that leave exceeds the leave granted by Europol.

A period equivalent to the break may be added to the end of the secondment if the interests of Europol 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 sentence of paragraph 2 shall apply.

### *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.

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<sup>9</sup> Articles 57 and 59a and Annex V to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

<sup>10</sup> Article 58 of the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

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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 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.

### CHAPTER III

#### Allowances and expenses

##### Article 18

##### Subsistence allowances

1. SNE other than those seconded cost-free shall be entitled, throughout the period of 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) <sup>11</sup>	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 officials<sup>12</sup>.

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<sup>11</sup> The methodology foreseen in Articles 7 and 8 of Annex VII to the Staff Regulations to calculate distance shall apply *mutatis mutandis*.

<sup>12</sup> Article 4 of Annex VII to the Staff Regulations and the provisions implementing this Article shall apply *mutatis mutandis*.

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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 of Europol shall be 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.

Before the secondment, the SNE's seconding authority shall certify to Europol that during the 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 Human Resources Unit of Europol 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. Subsistence allowances shall be payable for every day of the week, including during periods of mission, annual leave, special leave and holidays granted by Europol.
8. Subsistence allowances shall be paid monthly in arrears at the end of each month.

### *Article 19 Place of origin*

1. For the purposes of this Decision, "place of origin" shall mean the place where the SNE performed his duties for the seconding authority at the time of his secondment. The place of secondment shall be the place where the Unit/ Department or office of Europol to which the SNE is seconded is located. Both places shall be identified in the exchange of letters referred to in Article 4(4).
2. If, six months before his secondment to Europol as an SNE, a national expert already has his main 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.

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### *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 secondment.
2. Travel expenses shall be reimbursed in accordance with the relevant rules and conditions in force at Europol<sup>13</sup>.
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 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 Human Resources Unit of Europol 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 Europol<sup>14</sup>.

### *Article 22 Training*

SNEs shall be entitled to attend 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.

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<sup>13</sup> Article 7(1) and (2) of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

<sup>14</sup> Article 11 and 12 of Annex VII to the Staff Regulations and the provisions implementing these Articles shall apply *mutatis mutandis*.

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### *Article 23 Administrative provisions*

1. SNEs shall report to the Human Resources Unit of Europol on 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.
2. SNEs seconded to places other than The Hague shall report to the appropriate Europol office in the place of secondment.

### *Article 24 Complaints*

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

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 of Europol 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 to Europol as a result of negligence or misconduct on the part of the SNE in the course of or in connection with the performance of his duties, 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 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.

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### **CHAPTER IV**

#### **Provisions on the secondment of 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. “Secondary Security Checks” are Europol’s activities in the context of strengthening controls at the external borders of the EU, in particular at the “hot spots” in support of the screening process, in accordance with the conclusions of the Council of the EU and of the Member States meeting within the Council on Counter-Terrorism held on 20 November 2015.

##### *Article 27*

##### *General provisions*

1. In deviation from Article 3(2), SNEs seconded by the national authorities for SSCs will be regularly 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 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.
5. Notwithstanding the possibility to authorise suspensions under Article 10(1), Europol may, in the letters to be exchanged in accordance with Article 4(4), require, in agreement with the seconding authority, suspensions 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 effects of such suspensions shall be those stipulated in Article 10(1) and (2), in particular that the period of suspension shall not be counted in the period of active secondment as defined in Article 5. The maximum duration of the individual part of the active secondment preceding the suspension

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shall be specified in the said letters. During these suspensions, Europol may suspend the coverage against the risk of accident in deviation from Article 12(2).

### *Article 28 Working conditions*

1. Where the active secondment of SNEs seconded for SSCs is foreseen to be interrupted by suspensions in accordance with Article 27(5), the entitlement to annual leave shall be calculated *pro rata*, according to the duration of the part of the active secondment preceding the suspension.
2. All SNEs who are subject to suspension(s) according to Article 27(5) 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.

### *Article 29 Travel expenses from place of origin to place of long-stay mission*

As regards cost-free SNEs seconded for SSCs, Europol shall reimburse, in cases justified by the interests of the service, the travel expenses between the place of origin as defined in Article 19 and the place of long-stay mission at the beginning and end of each part of the active secondment which follows a suspension in accordance with Article 27(5). Article 20, paragraphs 2 to 4, shall apply by analogy.

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 Final provisions**

### *Article 30 Delegation*

1. The Executive Director of Europol 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 SNEs' 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.

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### Article 31 Entry into force

1. The Decision of the Management Board of Europol of 12 May 2016 laying down rules on the secondment of national experts to Europol<sup>15</sup> is hereby repealed.
2. This Decision shall enter into force on 2 July 2018 and be published in the Europol *Vademecum*.
3. This Decision shall apply to all national experts whose secondment to Europol is ongoing at the date of its entry into force, with the exception of:
  - the provisions relating to the reimbursement of expenses of regular and long-stay missions approved before 2 July 2018;
  - Article 5(1) on the maximum period of active secondment;<sup>16</sup>
  - Article 13(2) in case of a request for part-time work approved before 2 July 2018; and of
  - the provision on the methodology to calculate distance contained in footnote 11 (Article 18);<sup>17</sup>

with regard to the subject matters covered by these exceptions, the decision of the Management Board of 12 May 2016 shall remain in force for such national experts until the end of their ongoing secondment, or until the procedure of reimbursement of missions expenses is finalised, whichever is the later.

In particular, Article 27(5), second sentence, shall be implemented as from 2 July 2018 with regard to all active or suspended secondments of SNE seconded for SSCs.

Done at Sofia on 3 May 2018

For the Management Board



Priit Pärkna  
Chairperson

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<sup>15</sup> EDOC #824566v6.

<sup>16</sup> The period of active secondment is laid down in the exchange of letters in accordance with Article 4(4) and remains unaffected by the present Decision. Any extension of a secondment ongoing at the date of entry into force of this Decision shall, however, be subject to its provisions.

<sup>17</sup> See second sentence of Footnote 16.