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ΕΥΡΩΠΑΪΚΟ ΕΛΕΓΚΤΙΚΟ ΣΥΝΕΔΡΙΟ
EUROPEAN COURT OF AUDITORS
COUR DES COMPTES EUROPÉENNE
CÚIRT INIÚCHÓIRÍ NA HEORPA



CORTE DEI CONTI EUROPEA
EIROPAS REVĪZIJAS PALĀTA
EUROPOS AUDITO RŪMAI

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**DECISION No 18-2010 OF THE COURT OF AUDITORS
LAYING DOWN RULES APPLICABLE TO SECONDED NATIONAL EXPERTS**

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ЕВРОПЕЙСКА СМЕТНА ПАЛАТА
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**Decision No 18-2010 of the Court of Auditors
laying down rules applicable to seconded national experts**

THE COURT OF AUDITORS,

- HAVING REGARD TO the Treaty on the Functioning of the European Union, and in particular Article 287 thereof;
- HAVING REGARD TO Decision No 30-2003 of the Court of Auditors of 12 June 2003 on the secondment of officials from the European Court of Auditors to national supreme audit institutions;
- HAVING REGARD TO Decision No 34-2004 laying down rules applicable to national experts on secondment to the European Court of Auditors from national supreme audit institutions;
- HAVING REGARD TO Decision No 33-2005 laying down rules applicable to national experts on secondment to the European Court of Auditors;

WHEREAS:

- (1) the purpose of accepting seconded national experts (SNEs) at the Court is to enable the Court to have the benefit of the high level of professional experience and knowledge which they have;
- (2) it is desirable to foster exchanges of professional knowledge and experience by temporarily assigning experts from the administrations of the Member States to departments of the Court;
- (3) the rights and obligations of SNEs set out in this decision are intended to ensure that the SNEs carry out their duties solely in the interests of the Court;
- (4) it is necessary to set out all the conditions of employment of SNEs;
- (5) the allowances and benefits paid to SNEs should be amended and, in particular, aligned with the levels of remuneration paid by the European Commission;

- (6) the date of entry into force of this decision should be so set that it is not prejudicial to the interests of national experts who are already on secondment to the European Court of Auditors when compared with experts on secondment to the Commission,

HAS DECIDED:

CHAPTER I: GENERAL PROVISIONS

Article 1

Scope

1. These rules are applicable to national experts seconded to the European Court of Auditors by a supreme national audit institution or by a national authority of a Member State of the European Union (hereinafter referred to as the employer).
2. The persons covered by these rules shall remain in the service of their employer throughout the period of secondment and shall continue to be paid by that employer.
3. Except where the Appointing Authority of the European Court of Auditors (hereinafter referred to as the Appointing Authority) grants a derogation, an SNE must be a national of a Member State of the European Union.
4. The secondment shall be implemented by an exchange of letters between the European Court of Auditors and the employer. In both parties' interests they shall agree, within the framework of that procedure, on the nature of the assignment, the professional qualifications required and the duration of the SNE's secondment. A copy of the rules applicable to national experts on secondment to the European Court of Auditors shall be attached to the exchange of letters.

Article 2

Simultaneous and reciprocal exchanges of experts

In principle, an SNE shall be seconded in the context of a reciprocal and simultaneous exchange with a European Court of Auditors official, for the same period as the secondment of the European Court of Auditors official and at no additional cost to the SNE's employer.

Article 3

Period of secondment

1. The period of secondment may not be less than six months or greater than two years and may be renewed successively up to a total period not exceeding four years.

However, at the end of the four-year period and where justified in the interest of the service, the Appointing Authority may authorise one or more extensions to the secondment up to a maximum of two further years.

2. The intended period of secondment shall be fixed at the outset in the exchange of letters provided for in Article 1(4). The same procedure shall apply in the case of renewal of the period of secondment.
3. An SNE who has already been seconded to the European Court of Auditors may be seconded to it again subject to any relevant internal rules laying down maximum periods for which such persons may be present in the European Court of Auditors' departments, and always subject 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 first secondment, the SNE received a direct contract with the European Court of Auditors, the length of that contract must be taken into account when calculating the six-year period.
 - c) This provision shall not prevent the European Court of Auditors from accepting the secondment of an SNE whose initial secondment lasted less than four years, but in that case the new secondment shall not exceed the unexpired part of the four-year period, without prejudice to the possibility of an extension referred to in the second subparagraph of paragraph 1.

Article 4 *Duties*

1. The European Court of Auditors and the employer shall agree on the area in which the SNE is to perform his/her duties.

The European Court of Auditors' directorates and units concerned, the SNE's employer and the SNE must make every effort to avoid any conflict of interests, and any appearance of such a conflict, in relation to the SNE's duties while on secondment. In particular, the SNE shall be asked to declare any potential conflict between his/her family circumstances (in particular the professional activities of close family members or any important financial interests of his/her own or of family members) and the proposed duties pertaining to his/her secondment.

The employer and the SNE shall undertake to declare to the Appointing Authority any change of circumstances during the secondment which could give rise to any such conflict.

2. Where the audit unit to which the SNE is to be seconded considers that the nature of its activities requires particular security precautions, clearance shall be obtained before the SNE is recruited.

3. SNEs shall cooperate with the officials and temporary staff of the European Court of Auditors and shall carry out the tasks assigned to them.
4. An SNE shall take part in missions only if accompanying an official or temporary member of staff of the European Court of Auditors.

In exceptional circumstances, the Member responsible for the audit task to which the SNE is assigned may derogate from this rule on the basis of a specific mandate given to the SNE and after having obtained assurance that there is no potential conflict of interests. Under no circumstances may an SNE on his/her own represent the European Court of Auditors with a view to entering into commitments (financial or otherwise) or negotiating on its behalf.

5. The European Court of Auditors shall remain solely responsible for approving the results of any tasks performed by the SNE and for signing any official documents arising therefrom.
6. Failure to comply with the provisions of paragraph 1 and paragraphs 3 to 5 shall entitle the European Court of Auditors to terminate the secondment of the SNE in accordance with Article 8.

Article 5 *Rights and obligations*

1. During the period of secondment,
 - a) the SNE shall carry out his/her duties and shall behave solely with the interests of the European Court of Auditors in mind;
 - b) the SNE shall abstain from any action, and in particular from any public expression of opinion, which may reflect on his/her position or damage the interests of the European Court of Auditors;
 - c) an SNE who, in the performance of his/her duties, is called upon to pronounce on a matter in the handling or outcome of which he/she has a personal interest such as to compromise his/her independence shall inform the unit or directorate to which he/she is attached;
 - d) the SNE shall not, whether acting alone or with others, publish or cause to be published any matter dealing with the work of the European Union without obtaining permission in accordance with the conditions and rules in force at the European Court of Auditors. Permission shall be refused only where the proposed publication is likely to damage the interests of the European Court of Auditors or the European Union;
 - e) all rights in any work done by the SNE in the performance of his/her duties shall be the property of the European Court of Auditors;
 - f) the SNE shall reside at the place of employment or at no greater distance therefrom than is compatible with the proper performance of his/her duties;

- g) the SNE shall assist and tender advice to the superiors to whom he/she is assigned and shall be responsible to such superiors for performance of the duties entrusted to him/her;
 - h) the SNE shall accept no instructions from his/her employer or national government. He/she shall not undertake any activity for his/her employer or for any other person, company or public authority;
 - i) the SNE shall be entitled to the allowances and reimbursements of expenses that are set out in Chapter III;
 - j) the SNE shall be entitled to attend training courses organised by the European Court of Auditors, if the interests of the European Court of Auditors so warrant. The reasonable interests of the SNE, in particular in view of his/her further career after the secondment, must be considered when deciding whether to grant permission to attend a course.
- 2. Both during and after the period of secondment, the SNE shall exercise the greatest discretion with regard to all facts and information coming to his/her knowledge in the course of or in connection with the performance of his/her duties; he/she shall not disclose to any unauthorised person, in any form whatsoever, any document or information not already made public, nor shall he/she use such material for personal gain.
 - 3. Failure to comply with any of the provisions of this Article during the SNE's secondment shall entitle the European Court of Auditors to terminate the secondment in accordance with Article 8.
 - 4. After completion of the secondment, the SNE shall continue to be bound by the duty to behave with integrity and discretion as regards the performance of the new duties assigned to him/her and the acceptance of certain appointments or benefits.

Article 6

Level, professional experience and knowledge of languages

- 1. In order to qualify for secondment to the European Court of Auditors a national expert must have at least three years' full time professional experience in posts equivalent to those which the Staff Regulations of Officials of the European Communities define for function group AD. The SNE's employer shall supply the European Court of Auditors, before the secondment, with a statement of the expert's employment history for the previous twelve months.
- 2. In order to perform their duties, SNEs must have thorough knowledge of one official language of the European Union and satisfactory knowledge of a second official language.

Article 7

Breaks in periods of secondment

1. The European Court of Auditors may authorise breaks in periods of secondment and specify the terms thereof. During such breaks,
 - a) the allowances referred to in Article 14 shall not be payable;
 - b) the expenses referred to in Articles 16 and 17 shall be reimbursed only if the break occurs at the European Court of Auditors' request.
2. The European Court of Auditors shall inform the SNE's employer.

Article 8

Termination of periods of secondment

1. Subject to paragraph 2, a secondment may be terminated at the request of the European Court of Auditors or of the SNE's employer if the party concerned gives three months' notice to the other party. It may also be terminated at the SNE's request, subject to the same notice and to the European Court of Auditors' agreement.
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 agreement between the European Court of Auditors and the employer, on request by the SNE to both parties, if the SNE's essential personal or professional interests so require;
 - c) by the European Court of Auditors in the event that budget appropriations are not available or that the SNE or the employer fails to honour his/her obligations under these rules.
3. In the event of termination under paragraph 2(c), the European Court of Auditors shall immediately inform the SNE and the employer.

CHAPTER II: WORKING CONDITIONS

Article 9

Social security

1. Before the period of secondment begins, the SNE's employer shall certify to the European Court of Auditors that the SNE will remain subject, throughout the period of

secondment, to the social security legislation applicable to the seconding civil service and will assume responsibility for expenses incurred abroad.

2. If the SNE is not insured against the risk of accident, the European Court of Auditors shall take out insurance on his/her behalf to cover such risk.

Article 10 *Working hours*

1. The working hours of SNEs shall be those in force at the European Court of Auditors.
2. SNEs shall work full-time throughout the period of secondment. In exceptional cases, by reasoned request and subject to compatibility with the interests of the European Court of Auditors, the Appointing Authority may authorise an SNE to work part-time, after agreement by his/her employer. In this event, the amount of annual leave shall be reduced in accordance with Article 12(1).

Article 11 *Sick leave*

1. In the event of absence for reasons of sickness or accident, the SNE shall notify his/her immediate superior as soon as possible, stating his/her present address. If absent for more than three days, the SNE shall produce a medical certificate and may be required to undergo a medical examination arranged by the European Court of Auditors.
2. If the total for sickness or accident-related absences of not more than three days exceeds twelve days over a period of twelve months, the SNE shall be required to produce a medical certificate for any further absence due to sickness.
3. Where the period of sick leave exceeds one month or the period of service performed by the SNE, whichever is longer, the allowances referred to in Article 14(1) shall be automatically suspended. This provision shall not apply in the event of illness linked to pregnancy. Such leave may not extend beyond the duration of the secondment of the person concerned.
4. However, an SNE who is a victim of a work-related accident during the secondment shall continue to receive the allowance in full throughout the period in which he/she is unfit for work up to the end of the period of secondment.

Article 12 *Annual leave, special leave and holidays*

1. SNEs shall be entitled to two-and-a-half working days of leave for each whole month of service (30 days per calendar year). Annual leave shall be reduced to one working

day per whole month of service in cases of part-time working, and to one-and-a-half working days per whole month of service for three-quarter-time working

2. Leave may be taken in one or more instalments, according to the SNE's preferences and the needs of the service.
3. SNEs may, on reasoned application, be granted special leave in the following cases:
 - marriage of the SNE: four days;
 - serious illness of spouse: up to three days;
 - death of spouse: four days;
 - serious illness of a relative in the ascending line: up to two days;
 - death of a relative in the ascending line: two days;
 - birth or marriage of a child: two days;
 - serious illness of a child: up to two days;
 - death of a child: four days.
4. In addition to the cases listed in paragraph 3, and upon a duly justified request by the SNE's employer, up to two days of paid special leave may be granted by the European Court of Auditors, on a case-by-case basis, during any one twelve-month period.
5. However, the provisions of the Staff Regulations and of the rules applicable to other servants of the European Communities concerning travelling time, age and category shall not be applicable to SNEs.
6. Days of annual leave not taken by the end of the secondment shall be forfeited.

Article 13 *Maternity leave*

1. In respect of maternity leave, SNEs shall be bound by the rules in force at the European Court of Auditors. An SNE on maternity leave shall receive allowances calculated on the basis of Article 14.
2. Where the period of maternity leave granted by the national legislation of the SNE's employer is longer, a break in the secondment shall be applied for the period exceeding that granted by the European Court of Auditors.

A period equivalent to the break shall be added to the end of the secondment if the interests of the European Court of Auditors so warrant.

3. Alternatively, the SNE may apply for a break in the secondment to cover the whole of the period granted for maternity leave. The second subparagraph of paragraph 2 above shall also apply in such event.

CHAPTER III: ALLOWANCES AND EXPENSES

Article 14

Subsistence allowances

1. SNEs shall be entitled, throughout the period of secondment, to a daily subsistence allowance of 125,26 euro.

If the SNE has not received removal expenses from any source, an additional monthly allowance shall be paid as shown in the table below:

Distance between place of residence and place of employment (km)	Amount in euro
0 - 100	0
> 100	80,51
> 300	143,12
> 500	232,58
> 800	375,72
> 1 300	590,41
> 2 000	706,73

This allowance shall be paid monthly in arrears.

2. These allowances shall be payable for periods of mission, annual leave, special leave, maternity leave and holidays granted by the European Court of Auditors.
3. SNEs who, during the three years ending six months before their secondment, habitually resided or carried on their main occupation at a distance of 100 km or less from the place of employment shall receive a daily allowance reduced by 75 %.

For the purpose of this provision, circumstances arising from work done by an SNE for a State other than that of the place of employment, or for an international organisation, shall not be taken into account.

4. At the start of the secondment, the SNE shall receive a lump sum advance equivalent to 75 days of the subsistence allowance. This payment shall cause the extinction of all further entitlements to daily subsistence allowances for the period to which it corresponds. If the SNE's duties at the European Court of Auditors are terminated before the end of the period taken into account when calculating the advance, the SNE shall return an amount corresponding to the remaining part of that period.

5. SNEs shall inform the Human Resources Directorate of the European Court of Auditors of any similar allowances received from other sources. Any such amounts shall be deducted from the allowances paid by the European Court of Auditors pursuant to paragraph 1 above.
6. The level of daily and monthly allowances shall be adjusted once a year, without retroactive effect, to reflect adjustments in the basic salaries of the European Court of Auditors' officials in Luxembourg.

Article 15

Additional flat-rate allowance

1. Except where the SNE's place of residence is 100 km or less from the place of employment, he/she shall, where appropriate, receive an additional flat-rate allowance equal to the difference between the gross annual salary (less family allowances) paid by the employer, plus the subsistence allowances paid by the European Court of Auditors, and the basic salary payable to an official in step 1 of Grade AD7.
2. This allowance shall be adjusted once a year, without retroactive effect, to reflect adjustments in the basic salaries of the officials of the European Court of Auditors.

Article 16

Place of residence and place of employment

1. For the purpose of these Rules, the place where the SNE was performing his/her duties for the employer immediately prior to secondment shall be considered as the place of residence. The place of employment shall be the place where the European Court of Auditors unit to which the SNE is attached is located. Both places shall be identified in the exchange of letters referred to in Article 1(4).
2. If, at the time of secondment, the SNE is already on secondment for his/her employer in a place other than that of the employer's head office, the place of residence shall be considered to be whichever of the two places is closer to the place of employment.

Article 17

Travel expenses

1. An SNE whose place of residence is more than 100 km from the place of employment is entitled to the reimbursement of travel expenses:
 - a) for himself/herself
 - at the beginning of the period of secondment, from the place of residence to the place of employment;

- at the end of the period of secondment, from the place of employment to the place of residence;
- b) for his/her spouse and dependent children, provided that they live with the SNE and that the removal is to be reimbursed by the European Court of Auditors,
 - at the beginning of the secondment, from the place of residence to the place of employment;
 - at the end of the secondment, from the place of employment to the place of residence.
- 2. Travel expenses shall be reimbursed in accordance with the rules and conditions in force at the European Court of Auditors.
- 3. By way of derogation from paragraph 1, SNEs who can prove that they have changed the place at which they will be primarily employed after the end of the secondment shall be entitled to the reimbursement of travel expenses to that place within the limits set out above.

The amount reimbursed may not exceed the amount to which the SNE is entitled for a return to the place of residence.
- 4. If the SNE has removed from the place of residence to the place of employment, he/she shall be entitled to an annual flat-rate payment equal to the cost of a return journey from the place of employment to the place of residence for himself/herself, his/her spouse and any dependent children, on the basis of the rules in force at the European Court of Auditors.
- 5. The European Court of Auditors shall not reimburse any of the costs referred to in the previous paragraphs if they are borne by the employer.

Article 18

Removal expenses

1. Wherever Article 14(3), second subparagraph, and Article 14(5) do not apply, SNEs may remove their personal effects from the place of residence to the place of employment, at the European Court of Auditors' expense and after obtaining its prior authorisation, in accordance with Section 3D of Annex VII to the Staff Regulations of Officials of the European Union and the rules in force at the European Court of Auditors for the reimbursement of removal expenses. The following conditions must be met:
 - a) the initial secondment must be for two years;
 - b) the SNE's place of employment must be 100 km or more from the place of residence;
 - c) the removal must be completed within six months of the starting date of the secondment;

- d) the removal costs are not being met by the employer (in the event of partial reimbursement by the employer a corresponding amount shall be deducted from the amount reimbursed by the European Court of Auditors);
 - e) the SNE must provide the European Court of Auditors with originals of estimates, receipts and invoices and a certificate from the employer confirming that the employer is not bearing the cost of removal (or stating what part of removal expenses are being borne by the employer).
- 2. Subject to paragraphs 3 and 4 below, where the costs of removal to the place of employment have been reimbursed by the European Court of Auditors the SNE shall be entitled, at the end of the secondment and subject to prior authorisation, to the reimbursement of removal expenses from the place of employment to the place of residence, in accordance with the internal rules in force for the reimbursement of removal expenses. The conditions of paragraphs 1(d) and 1(e) must be met and the removal must be completed within six months of the end of the secondment.
 - 3. An SNE whose secondment is terminated at his/her request or at that of the employer within two years of the start of the secondment shall not be entitled to the reimbursement of removal costs to the place of residence.
 - 4. SNEs who can prove that they have changed the place at which they will be primarily employed after the end of the secondment shall be entitled to the reimbursement of removal expenses to that place, on condition that those costs do not exceed the costs that would have been reimbursed for a removal to the place of residence.

Article 19

Missions and mission expenses

- 1. SNEs may be sent on mission subject to Article 4 of these rules
- 2. An SNE travelling under cover of a mission order shall be entitled to the reimbursement of mission expenses in accordance with Section 3F of Annex VII to the Staff Regulations of Officials of the European Communities and the rules and conditions in force at the European Court of Auditors.

CHAPTER IV: MISCELLANEOUS PROVISIONS

Article 20

Administrative provisions

SNEs shall take up their duties on either the first or the sixteenth of the month.

Article 21
Amendment of these rules

Any amendments to the Staff Regulations or to the rules applicable to other servants of the European Communities shall automatically apply *mutatis mutandis* to any analogous provisions in these rules.

Article 22
Entry into force

This decision shall cancel and replace Decision No 34-2004 laying down rules applicable to national experts on secondment to the European Court of Auditors from national supreme audit institutions and Decision No 33-2005 laying down rules applicable to national experts on secondment to the European Court of Auditors.

Done in Luxembourg, 02-03-2010

For the Court of Auditors



Vítor Caldeira
President