

COUNCIL DECISION (EU) 2016/1352**of 4 August 2016****concerning the rules applicable to national experts seconded to the European Defence Agency, and
repealing Decision 2004/677/EC**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Articles 42 and 45 thereof,

Having regard to Council Decision (CFSP) 2015/1835 of 12 October 2015 defining the statute, seat and operational rules of the European Defence Agency ⁽¹⁾, and in particular Article 11 thereof,

Whereas:

- (1) The secondment of experts should enable the European Defence Agency (hereinafter referred to as 'the Agency') to benefit from the high level of knowledge and professional experience of those experts, in particular in areas where such expertise is not readily available within the Agency.
- (2) The exchange of professional experience and knowledge in the field of defence, as set out in Decision (CFSP) 2015/1835, and related support functions should be supported through the temporary assignment of seconded national experts (hereinafter referred to as 'SNEs') from Member States' public sectors.
- (3) The rights and obligations of SNEs should ensure that they carry out their duties solely in the interests of the Agency.
- (4) The term 'secondment' should be construed in the context of this Decision.
- (5) Since the rules established by this Decision should replace those laid down in Council Decision 2004/677/EC ⁽²⁾, that Decision should be repealed,

HAS ADOPTED THIS DECISION:

CHAPTER I

General provisions

Article 1

Scope

The rules established by this Decision apply to SNEs who fulfil the conditions set out in Article 2 seconded to the Agency and who are experts seconded by participating Member States' public administrations, at national or regional level, in particular Ministries of Defence and/or their agencies, bodies, national defence colleges, research institutes, including those in accordance with Article 11(4)(b) of Decision (CFSP) 2015/1835.

⁽¹⁾ OJ L 266, 13.10.2015, p. 55.

⁽²⁾ Council Decision 2004/677/EC of 24 September 2004 concerning the Rules applicable to national experts and military staff on secondment to the European Defence Agency (OJ L 310, 7.10.2004, p. 64).

In accordance with Article 11(4)(a) of Decision (CFSP) 2015/1835, experts:

- from a third country with which the Agency has concluded an administrative arrangement, or
- from organisations/entities with an Administrative Arrangement with the Agency, provided that the SNE is a national from a Member State or a third country with whom the agency has concluded an administrative arrangement,

shall be seconded or posted, pursuant to Article 26(1) of that Decision, to the Agency with the agreement of the Steering Board, in accordance with the conditions to be laid down in those arrangements.

Article 2

Conditions for secondment

To qualify for secondment to the Agency, experts shall:

1. have worked for their employer on a permanent or contract basis for at least 12 months before their secondment;
2. remain in the service of their employer throughout the period of secondment and continue to be paid by that employer;
3. have at least three years' full-time experience in defence, administrative, scientific, technical, operational, advisory or supervisory functions relevant to the performance of the duties assigned to them. Before the secondment, the employer shall supply the Agency with a statement of the expert's employment covering the previous 12 months;
4. be nationals of a participating Member State or falling within the provisions of the second paragraph of Article 1;
5. have a thorough knowledge of one official language of one of the participating Member States and a satisfactory knowledge of another of these languages for the performance of their duties.

Article 3

Selection procedure

1. SNEs shall be selected according to an open and transparent procedure decided in accordance with Article 42.
2. Without prejudice to Article 2(4), SNEs shall be seconded to secure for the Agency the services of persons of the highest standards of ability, efficiency, integrity and merit. They shall be seconded on as wide a geographical basis as possible from among nationals of the participating Member States. The participating Member States and the Agency shall cooperate to ensure, as far as possible, a balance between men and women and observe the principle of equal opportunities.
3. A call for the expression of interest shall be sent to the Permanent Representations of the participating Member States, Missions of the third countries, the organisation or entity, as appropriate, and published on the Agency website. The call shall indicate the descriptions of the posts, the selection criteria and the deadline for the submission of applications. Candidates for an SNE post must be sponsored by their national authorities, organisation or entity. Confirmation is required in the form of a letter of sponsorship addressed to the Agency, as far as possible by the closing date for the receipt of applications and in any case not later than the recruitment date.

4. In the case of cost-free SNEs and national experts in professional training (hereinafter referred to as 'NEPTs'), the Agency may decide that an SNE shall be selected without following the selection procedures set out in paragraphs 1 and 2.
5. The secondment of experts shall be subject to the specific requirements and budgetary capacity of the Agency.
6. The Agency shall create an individual file for the SNE. That file shall contain relevant administrative information.

Article 4

Administrative procedure for secondment

Secondments shall be implemented by an Exchange of Letters between the Chief Executive of the Agency and the Permanent Representation or Mission of the Member State concerned, the organisation or entity, as appropriate. The place of secondment and the function group to which the SNE is to belong, in an administrators' function group (hereinafter 'AD') or an assistants' function group (hereinafter 'AST'), shall be indicated in the Exchange of Letters. The Exchange of Letters shall also mention the Directorate/Unit to which the SNE is seconded and a detailed description of the tasks the SNE is to carry out. A copy of the rules applicable to SNEs on secondment to the Agency shall be attached to the Exchange of Letters.

Article 5

Period of secondment

1. The period of secondment shall be a minimum of two months and a maximum of three years. It may be renewed successively up to a total period not exceeding four years.

However, in exceptional cases, at the request of the relevant Director and after prior agreement of the employer, the Chief Executive of the Agency may authorise one or more extensions of the secondment beyond the four-year maximum referred to in the first subparagraph, up to an additional two years.

2. The period of secondment shall be fixed at the outset in the Exchange of Letters provided for in Article 4. The same procedure shall apply in the case of any renewal, extension of the period of secondment or change of post.

3. An SNE who has previously been seconded to the Agency may be seconded again, after consultation with the national administration of origin, provided that the SNE continues to meet the conditions for secondment referred to in Article 2 and within the overall ceiling defined in Article 11(5) of Decision (CFSP) 2015/1835.

Article 6

Obligations of the employer

Throughout the period of secondment, the SNE's employer shall continue to:

- (a) pay the SNE's salary;
- (b) be responsible for all the SNE's social rights, in particular those concerning social security, insurance and pension; and
- (c) subject to point (d) of Article 10(2), maintain the SNE's administrative status as either a permanent official or a contract staff member and inform the Chief Executive of the Agency of any change in the SNE's administrative status either as a permanent official or as a contract staff member.

*Article 7***Duties**

1. SNEs shall assist staff members of the Agency and carry out the tasks and duties assigned to them by the Chief Executive of the Agency.
2. Taking into consideration the composition of the staff of the Agency and, in particular, their role in contributing to the results of the Agency, the Chief Executive may entrust an SNE with management duties if so required in the interests of the service.

In any case, an SNE shall not be able to legally commit the Agency.

3. An SNE may take part in missions and meetings. Nevertheless, the Chief Executive may decide to limit the SNE's participation to missions and meetings only to:
 - (a) accompany an Agency staff member; or
 - (b) if alone, to attend as an observer or solely for information purposes.
4. The Agency shall retain sole responsibility for approving the results of tasks performed by the SNE.
5. The Agency, the SNE's employer and the SNE shall make every effort to avoid any actual or potential conflict of interest in relation to the SNE's duties during secondment. To that end, the Agency shall, in good time, inform the SNE and the employer of the intended duties and shall ask each of them to confirm in writing that they know of no reason why the SNE should not be assigned to those duties.

The SNE shall be asked in particular to declare any potential conflict between the SNE's family circumstances (in particular the professional activities of close or extended family members, or any important financial interests of their own or of family members) and the proposed duties while on secondment.

The employer and the SNE shall undertake to notify the Agency of any change of circumstances during the secondment which could give rise to any conflict of interest.

6. Where the Agency considers that the nature of the tasks entrusted to the SNE requires particular security precautions, security clearance shall be obtained before the SNE is seconded.

*Article 8***Rights and obligations of SNEs**

1. During the period of secondment an SNE shall act with integrity. In particular:
 - (a) the SNE shall perform the duties assigned and otherwise behave solely with the interests of the Agency in mind.

In particular, the SNE shall, in the exercise of their duties, not accept any instructions from, nor undertake any activities for, their employer, any government, any other person, private company or public body;

- (b) the SNE shall abstain from any action, and in particular any public expression of opinion, which may reflect on their position at the Agency;

- (c) the SNE shall inform their superior where the SNE, in the performance of their duties, is called upon to give a decision on the handling or outcome of a matter in which the SNE has a personal interest that could impair their independence;
- (d) the SNE shall not, whether alone or together with others, publish or cause to be published any text dealing with the work of the Union without obtaining permission in accordance with the conditions and rules in force at the Agency. Permission shall be refused only where the intended publication is liable to prejudice the interests of the Agency or of the Union;
- (e) all rights in any work done by an SNE in the performance of their duties shall be the property of the Agency;
- (f) the SNE shall reside at the place of secondment or at no greater distance from that place than is compatible with the proper performance of the duties assigned;
- (g) the SNE shall assist and tender advice to the superior to whom they are assigned and shall be responsible to their superior for the performance of the duties entrusted to them.

2. Both during and after the period of secondment, the SNE shall exercise the greatest discretion with regard to all facts and information of which the SNE becomes aware in the course of, or in connection with, the performance of their duties. The SNE shall not in any form whatsoever disclose to any unauthorised person any document or information not already lawfully made public, nor shall the SNE use it for personal gain.

3. At the end of the secondment, the SNE shall continue to be bound by the obligations to act with integrity and discretion in the exercise of new duties and in accepting certain posts or advantages.

To that end, in the three years following the period of secondment the SNE shall immediately inform the Agency of any duties or tasks which are likely to give rise to a conflict of interest in relation to the tasks carried out by the SNE during the period of secondment.

4. The SNE shall be subject to the security rules in force at the Agency, including data protection rules and the Agency network protection rules. The SNE shall also be subject to the rules governing the protection of the Agency's financial interests.

5. Failure to comply with the provisions of paragraphs 1, 2 and 4 of this Article during the period of secondment shall entitle the Agency to terminate the secondment of an SNE in accordance with point (c) of Article 10(2).

6. The SNE shall immediately notify the SNE's superior in writing if in the course of the secondment the SNE becomes aware of facts which give rise to a presumption of the existence of:

- (a) possible illegal activity, including fraud or corruption, detrimental to the interests of the Agency; or
- (b) conduct relating to the discharge of professional duties which may constitute a serious failure to comply with the obligations of staff members of the Agency or of SNEs.

This paragraph shall also apply in the event of serious failure to comply with a similar obligation on the part of a staff member or any other person in the service of, or carrying out work for, an institution of the Union.

7. Where the superior receives notification as referred to in paragraph 6 of this Article, the superior shall take the measures provided for in Article 27 of Council Decision (EU) 2016/1351⁽¹⁾ (hereinafter referred to as 'the Staff Regulations of the Agency'). Articles 27, 28 and 29 of the Staff Regulations of the Agency shall apply to the superior under the terms of Article 4 of this Decision. Those provisions shall also apply *mutatis mutandis* to the SNE concerned, to ensure that the SNE's rights are respected.

⁽¹⁾ Council Decision (EU) 2016/1351 of 4 August concerning the Staff Regulations of the European Defence Agency (see page 1 of this Official Journal).

*Article 9***Suspension of secondment**

1. At the written request of the SNE or the employer, and with the latter's agreement, the Agency may authorise suspensions of secondment and specify the terms applicable. During a suspension:
 - (a) the allowances referred to in Article 19 shall not be payable;
 - (b) the expenses referred to in Article 20 shall be payable only if the suspension is at the Agency's request.
2. The Agency shall inform the employer and the Permanent Representation or Mission of the State concerned.

*Article 10***Termination of periods of secondment**

1. Subject to paragraph 2, secondment may be terminated at the request of the Agency or of the SNE's employer, provided three months' notice is given. It may also be terminated at the SNE's request provided the same period of notice is given and subject to the employer's and the Agency's agreement.
2. In certain 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 mutual agreement between the Agency and the employer, at the request of the SNE to both parties, if the SNE's essential personal or professional interests so require;
 - (c) by the Agency in the event of major non-compliance with the obligations set out in this Decision by the SNE. The Agency shall confer with the Permanent Representation or Mission of the State concerned and take into account any comments received in view of its decision;
 - (d) by the Agency in the event of the termination of, or change in, the SNE's administrative status as either a permanent official or a contract staff member of the employer. The SNE shall first be given an opportunity to submit observations.
3. In the event of termination under point (c) of paragraph 2, the Agency shall immediately consult the employer and the Permanent Representation or Mission of the State concerned.

*CHAPTER II***Working conditions***Article 11***Social security**

1. Before the period of secondment begins, the employer shall certify to the Agency that, throughout the period of secondment, the SNE will remain subject to the social security legislation applicable to the national public administration or the organisation or entity, which employs the SNE. To that end, the relevant public administration shall supply the Agency with the attestation referred to in Article 19(2) of Regulation (EC) No 987/2009 of the European Parliament and of the Council ⁽¹⁾ (hereinafter referred to as the 'Portable document A1'). The organisation or entity shall supply the SNE with a certificate equivalent to the Portable document A1 and it shall prove that the social security legislation applicable provides for the defrayal of healthcare cost incurred abroad.

⁽¹⁾ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems (OJ L 284, 30.10.2009, p. 1).

2. From the commencement of their secondment, the SNE shall be covered by the Agency against the risk of accident. The Agency shall provide the SNE with a copy of the terms of this cover on the day on which the SNE reports to the Chief Executive of the Agency to complete the administrative formalities related to the secondment.

3. When, in the context of a mission in which the SNE is participating under the terms of Articles 7(2) and 29 additional or specific insurance is required, the relevant costs shall be borne by the Agency, or by the national administration of origin in case of cost-free SNEs and NEPTs, after having consulted the concerned Member State with regard to the mission.

Article 12

Working hours

1. The SNE shall be subject to the rules in force at the Agency as regards working hours, depending on the requirements of the post to which the SNE is assigned within the Agency.

2. The SNE shall serve on a full-time basis throughout the period of secondment. Following a duly justified request from a Director and subject to compatibility with the interests of the Agency, the Agency may authorise an SNE to work part-time, after obtaining the agreement of the employer.

3. Where part-time work is authorised, the SNE shall work at least half of the normal working time.

Article 13

Absence for reasons of sickness or accident

1. In the event of absence due to sickness or accident, an SNE shall notify the superior as soon as possible, stating the SNE's present address. The SNE shall produce a medical certificate if absent for more than three consecutive days and may be required to undergo a medical examination arranged by the Agency.

2. Where absence due to sickness or accident of not more than three days exceeds a total of 12 days over a period of 12 months, an SNE shall be required to produce a medical certificate for any further absence due to sickness or accident.

3. Where an absence due to sickness or accident exceeds one month or the period of service performed by the SNE, whichever is the longer, the allowances referred to in Article 19(1) and (2) shall be automatically suspended. This paragraph shall not apply in the event of illness linked to pregnancy. Absence due to sickness or accident may not extend beyond the duration of the secondment of the person concerned.

4. However, if the SNE is the victim of a work-related injury which occurs during the period of secondment the SNE shall continue to receive, in full, the allowances provided for in Article 19(1) and (2) throughout the period during which that SNE is unfit for work up to the end of the period of secondment.

Article 14

Annual leave, special leave and holidays

1. Without prejudice to specific provisions set out in this Decision, the SNE shall be subject to the rules in force at the Agency as regards annual leave, special leave and holidays.

2. Leave is subject to prior authorisation by the unit to which the SNE is assigned.
3. Upon a duly substantiated application by the employer, up to two days of additional special leave in a 12-month period may be granted by the Agency. Requests are examined on a case-by-case basis.
4. Days of annual leave not taken by the end of the period of secondment shall be forfeited.
5. An SNE whose period of secondment is less than six months may be granted special leave, on the basis of a reasoned application and subject to a decision by the Chief Executive of the Agency. That special leave may not exceed three days for the whole period of secondment. Before granting such leave, the Director concerned shall hold a prior consultation with the Human Resources Unit (hereinafter referred to as the 'HR Unit') of the Agency.

Article 15

Special leave for training

Notwithstanding Article 14(3), SNEs whose period of secondment is six months or more may be granted additional special leave by the Agency for the purpose of training by the employer, subject to a duly reasoned application by the employer with a view to the SNE's reintegration.

Article 16

Maternity and paternity leave

1. An SNE shall be subject to the rules in force at the Agency as regards maternity and paternity leave.
2. Where the national legislation of the employer grants longer maternity leave, at the SNE's request and after prior agreement of the employer, the secondment shall be suspended for the period exceeding that granted by the Agency. In that case, a period equivalent to the suspension shall be added at the end of the secondment, if the interests of the Agency so warrant.
3. Notwithstanding paragraph 1, the SNE may apply for a suspension of the secondment to cover the whole of the period allowed for maternity, after prior agreement of the employer. In that case, a period equivalent to the suspension shall be added at the end of the secondment, if the interests of the Agency so warrant.
4. Paragraphs 2 and 3 shall also apply in cases of adoption.
5. An SNE who is breastfeeding may on request, on the basis of a medical certificate attesting the fact, be granted special leave for a maximum of four weeks running from the end of her maternity leave, during which period she shall receive the allowances laid down in Article 19.

Article 17

Management and control

The management and control of working time and absences shall be the task of the HR Unit and the Directorate or unit to which the SNE is assigned, in accordance with the rules and procedures in force in the Agency.

CHAPTER III

Allowances and expenses

Article 18

Calculation of allowances and travel expenses

1. For the purposes of this Decision, the places of recruitment, secondment and return of an SNE shall be determined by the Agency in terms of the geographical position of those places based on their latitude and longitude, as calculated by the HR Unit.
2. For the purposes of this Decision:
 - (a) the place of recruitment shall be the place where the SNE performed their duties for their employer prior to secondment;
 - (b) the place of secondment shall be Brussels;
 - (c) the place of return shall be the place where the SNE will perform their main activity after the secondment is terminated.

The place of recruitment shall be determined in the Exchange of Letters referred to in Article 4.

3. For the purposes of this Article, circumstances arising from work done by SNEs for a state other than that of the place of secondment shall not be taken into account.

Article 19

Allowances

1. The SNE shall be entitled to a daily subsistence allowance throughout the period of secondment according to the same criteria as the expatriation allowance for Temporary Agents referred to in Article 4 of Annex IV to the Staff Regulations of the Agency. If those criteria are met, the daily subsistence allowance shall be EUR 128,67. Otherwise, it shall be EUR 32,18. They shall be equivalent to the allowance paid to a national expert seconded to the General Secretariat of the Council of the European Union.
2. The SNE shall be entitled, throughout the period of secondment, to an additional monthly allowance paid as shown in the table below:

Geographical distance between place of recruitment and place of secondment (in km)	Amount in EUR
0-150	0,00
> 150	82,70
> 300	147,03
> 500	238,95
> 800	385,98

Geographical distance between place of recruitment and place of secondment (in km)	Amount in EUR
> 1 300	606,55
> 2 000	726,04

3. The allowances referred to in paragraphs 1 and 2 of are intended to cover also incurred costs of removal of SNEs and any annual travel expenses incurred during secondment. They shall be payable for periods of mission, annual leave, maternity, paternity or adoption leave, special leave and holidays granted by the Agency, without prejudice to Articles 14, 15 and 16. Where part-time work is authorised, the SNE shall be entitled to reduced allowances on a pro rata basis.

4. When the SNE starts the period of secondment, the SNE shall receive an advance amount equivalent to 75 days of the subsistence allowance, whereupon entitlement to any further such allowances shall cease during the corresponding period. If the secondment to the Agency is ended before the expiry of the period taken into account to calculate the advance, the SNE shall be obliged to return the amount corresponding to the remaining part of that period.

5. At the time of the Exchange of Letters provided for in Article 4, the employer shall inform the Agency of any payment received by the SNE similar to those mentioned in paragraphs 1 and 2 of this Article. Any such amounts shall be deducted from the corresponding allowances paid by the Agency to the SNE.

6. The update to remuneration and allowances adopted by application of Article 60 of the Staff Regulations of the Agency shall apply automatically to the monthly and subsistence allowances in the month following their adoption without retroactive effect. Following adaptation, the new amounts will be published in series C of the *Official Journal of the European Union*.

Article 20

Travel expenses

1. The SNE shall be entitled to a flat-rate reimbursement for themselves of travel expenses at the beginning of the secondment.

2. The flat-rate reimbursement shall be based on an allowance per kilometre of geographical distance between the place of recruitment and the place of secondment. The kilometric allowance shall be determined in accordance with Article 7 of Annex IV to the Staff Regulations of the Agency.

3. The SNE shall be entitled to reimbursement for themselves of travel expenses to the place of return at the end of the secondment. The reimbursement may not be for a sum higher than that to which the SNE would have been entitled if the SNE had returned to their place of recruitment.

4. The travel expenses for SNEs' family members are not reimbursed.

Article 21

Missions and mission expenses

1. The SNE may be sent on mission.

2. Mission expenses shall be reimbursed in accordance with the provisions in force at the Agency.

*Article 22***Training**

The SNE shall be entitled to attend training courses organised by the Agency, if the interests of the Agency so warrant. The reasonable interests of the SNE, having regard in particular to their professional career after the secondment, shall be considered when a decision on permission to attend courses is taken.

*Article 23***Administrative provisions**

1. The SNE shall report to the relevant HR Unit on the first day of secondment to complete the requisite administrative formalities. The SNE shall take up their duties on either the first or the 16th of the month.
2. Payments shall be made by the Agency in euro.

*CHAPTER IV***Experts on cost-free secondment***Article 24***Experts on cost-free secondment**

1. An SNE may be seconded to the Agency as a cost-free SNE during the period of secondment.

Such secondment shall not entail the payment of any allowances or expenses for the Agency except, where appropriate, those provided for in Article 25.

2. Articles 18, 19 and 20 shall not apply to cost-free SNEs.

Without prejudice to Article 8, the conduct of a cost-free SNE shall always reflect the fact that the cost-free SNE is seconded to the Agency and shall never reflect adversely on their position at the Agency.

*Article 25***Missions**

1. If a cost-free SNE takes part in missions in a place other than the place of secondment, the cost-free SNE shall be reimbursed in accordance with the rules in force for the reimbursement of missions involving officials, except where another arrangement has been agreed between the Agency and the employer.
2. If, in connection with a mission, special 'high risk' insurance is provided by the Agency for officials, this facility shall also apply to a cost-free SNE who takes part in the same mission.
3. A cost-free SNE who takes part in a mission outside the territory of the Union shall be subject to the security arrangements in force at the Agency for such missions.

Article 26

Cost-free SNEs shall not be included in the staff establishment plan. Nevertheless, for transparency and information purposes, their number shall be reported to the Steering Board as part of the Chief Executive's annual reporting.

CHAPTER V

SNEs paid from budgets associated with ad hoc projects or programmes*Article 27*

This Decision shall also apply to SNEs whose allowances are paid from budgets associated with ad hoc projects or programmes of the Agency, referred to in Articles 19 and 20 of Decision (CFSP) 2015/1835 (hereinafter referred to as 'ad hoc SNEs').

Article 28

Ad hoc SNEs shall be assigned exclusively to the ad hoc projects or programmes whose budget funds their respective allowances and expenses.

The recruitment of ad hoc SNEs shall be subject to the prior approval of the relevant contributing Member States, based on a proposal including the draft vacancy notice associated with each post, by one or more of the relevant contributing Member States or by the Agency.

Article 29

Ad hoc SNEs shall not be included in the staff establishment plan. Nevertheless, for transparency and information purposes, their number shall be reported to the Steering Board as part of the Chief Executive's annual reporting.

Article 30

Budgets associated with ad hoc projects or programmes which cover the allowances and expenses of ad hoc SNEs may comprise contributions from third countries which take part in such projects and programmes, pursuant to Article 26(5) of Decision (CFSP) 2015/1835.

Notwithstanding the provisions of the second paragraph of Article 1, such contributions shall not entitle nationals of the third countries concerned to be considered as eligible in ad hoc SNE recruitment procedures.

CHAPTER VI

National experts in professional training*Article 31***General provisions and definitions**

NEPTs are SNEs who are admitted to the Agency for professional training purposes.

*Article 32***Purpose of the professional training**

1. The purpose of the professional training is to:
 - (a) give NEPTs experience of the Agency's working methods and projects;
 - (b) enable them to gain practical experience and understanding of the day-to-day work of the Agency and to give them the opportunity to work in a multicultural, multilingual environment;
 - (c) enable staff of national administrations, from the Ministry of Defence in particular, to put into practice the knowledge they have acquired in their studies, particularly in their respective areas of responsibility.
2. For its part, the Agency benefits from the input of people who can offer a new point of view and up-to-date knowledge which will enrich the daily work of the institution and build up a network of people with direct experience of its procedures.

*Article 33***Eligibility**

The provisions of Article 2, with the exclusion of paragraph 3, shall apply by analogy to NEPTs.

*Article 34***Duration of the professional training**

1. The professional traineeships shall last between three and 24 months. The duration shall be fixed at the outset and may be extended for duly justified reasons within a maximum period of 24 months.
2. A NEPT may complete only one professional traineeship.

*Article 35***Organisation of professional training**

Throughout their professional traineeship, NEPTs shall be supervised by a training advisor. The training advisor must inform the HR Unit of any significant incidents during the professional traineeship, in particular absences, illness, accidents or interruption, which he knows of or has been informed of by the NEPT.

NEPTs shall obey instructions given by their training advisor, their superiors in the Directorate or service to which they are seconded and the HR Unit.

NEPTs shall be allowed to attend meetings, unless they are restricted or confidential and the NEPT has no security clearance, to receive documentation and to participate in the activities of the department to which they are seconded.

*Article 36***Suspension of the professional traineeship**

At the written request of the NEPT or his employer, and with the latter's prior agreement, the Chief Executive of the Agency may authorise a very brief suspension of the professional traineeship or its early termination. The NEPT may return to complete the remaining period of the professional traineeship, but only up until the end of that period. Under no circumstances may the traineeship be extended.

*Article 37***Working conditions and remuneration**

1. Articles 2(3), 3, 5, 18, 19 and 20 shall not apply to NEPTs.
2. NEPTs shall be regarded as cost-free SNEs within the meaning of Chapter IV. They shall continue to be paid by their employer without any financial compensation being paid by the Agency.

The Agency shall not accept requests for grants or fees or the reimbursement of travel or other expenses other than the reimbursement of mission expenses incurred as part of the professional traineeship.

*Article 38***Reports and certificate of attendance**

NEPTs who have completed the stipulated professional training period shall complete the evaluation reports requested by the HR Unit at the end of their traineeship. Training advisors shall also complete the relevant evaluation report.

Subject to the completion of those reports, NEPTs who have completed their professional traineeships shall receive a certificate showing the dates of the professional training and the department in which it took place.

Article 39

NEPTs shall not be included in the staff establishment plan. Nevertheless, for transparency and information purposes, their number shall be reported to the Steering Board as part of the Chief Executive's annual reporting.

CHAPTER VII

Complaints*Article 40***Complaints**

Without prejudice to the possibilities for instituting proceedings after taking up a position, under the conditions and time limits laid down in Article 263 of the Treaty on the Functioning of the European Union, any SNE may submit a complaint to the authority authorised to conclude contracts (hereinafter referred to as the 'AACC') of employment under the Staff Regulations of the Agency about an act by the AACC under this Decision which adversely affects the SNE, with the exception of acts which follow directly from decisions taken by the employer.

The complaint must be lodged within two months. The period shall run from 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 AACC shall notify the person concerned of a reasoned decision within four months from the date on which the complaint was lodged. If at the end of that period the SNE has not received a reply to the complaint, the complaint shall be deemed to have been implicitly rejected.

CHAPTER VIII

Final provisions

Article 41

Provision of information

The Permanent Representations of all Member States shall be kept informed on a yearly basis about the number of SNEs in the Agency. This information shall include also:

- (a) the nationalities of SNEs seconded from an organisation or entity as set out in the second paragraph of Article 1;
- (b) any exceptions to the selection procedure in accordance with Article 3(3);
- (c) the assignment of all SNEs;
- (d) any suspension or early termination of SNEs' secondment in accordance with Articles 9 and 10;
- (e) the annual update of SNEs' allowances in accordance with Article 19.

Article 42

Delegation of powers

All powers conferred to the Agency under this Decision shall be exercised by the AACC.

Article 43

Repeal

Decision 2004/677/EC is hereby repealed. However, Articles 15 to 19 thereof shall remain applicable to the SNEs requesting so for secondments which are ongoing at the time of entry into force of this Decision, without prejudice to Article 44.

Article 44

Entry into force and application

This Decision shall enter into force on the date of its publication in the *Official Journal of the European Union*.

It shall apply from the first day of the month following its entry into force to each new secondment, renewal or extension of secondment.

Done at Brussels, 4 August 2016.

For the Council
The President
M. LAJČÁK
