



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 16.10.2002

COMMISSION DECISION

of 16 October 2002

implementing Council Regulation (EC, Euratom) No. 1746/2002 introducing, in the context of the reform of the Commission, special measures to terminate the service of officials of the European Communities appointed to an established post in the Commission of the European Communities

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC, EURATOM) No. 1746/2002 of 30 September 2002 introducing, in the context of the reform of the Commission, special measures to terminate the service of officials of the European Communities appointed to an established post in the Commission of the European Communities¹, in particular Article 1 thereof,

Whereas:

- (1) The Commission should, in relation to officials in grades others than A1 and A2, adopt, measures for terminating the service within the meaning of Article 47 of the Staff Regulations,
- (2) These measures are to be taken in the interest of the service and in order to take account of the need to renew skills arising from reorganisation measures and from the refocusing of the use of the Commission's resources on priority activities,
- (3) These measures being of a voluntary nature must only be applied to officials who have submitted an application for termination of their service,
- (4) For practical reasons, the measures authorised by Regulation (EC, EURATOM) No. 1746/2002 should be implemented in three rounds, the first taking place in 2002, the second in 2003 and the third in 2004,
- (5) According to Regulation (EC, EURATOM) No. 1746/2002, in order to be eligible for the application of the measures officials must have reached the age of 55 and have completed at least 15 years' service,
- (6) It is necessary to determine at what date, in respect of each round, the eligibility criteria must be met,

¹ OJ L 264 of 2 October 2002, p. 1

- (7) It is necessary to lay down clear criteria for decisions on applications for termination of service, in the interest of transparency and in order to ensure the observance of the principle of equal treatment,
- (8) While Article 3 of Regulation (EC, EURATOM) No 1746/2002 mentions the criteria determining the priority to be given to an individual application, it does not lay down rules allowing the relative weight of different applications to be assessed,
- (9) It should, therefore, be clarified which criteria confer high or lower priority on an application and which criteria may reduce its priority,
- (10) It is, thus, necessary, in the interest of transparency, to indicate how the Commission intends to apply these criteria,

HAS DECIDED AS FOLLOWS:

Article 1
Scope

This Decision lays down the procedure for implementing the measures provided for in Article 1 of Regulation (EC, EURATOM) No. 1746/2002 (hereafter referred to as “the measures”) and determines how the Commission will apply the criteria listed in Article 3 of that Regulation to individual applications

Article 2
Period of application

- 1) The measures shall be applied in three rounds, covering respectively the years 2002, 2003 and 2004. The maximum number of officials who can benefit from these measures over the three years is 600. The measures will be applied to a maximum of 200 officials in each of the first two rounds. In the third year, they may be applied to a number of officials equivalent to the difference between the number covered by the first two rounds and 600.
- 2) For the purposes of each round, the relevant date is 31 December of the year in which the round concerned is launched.

Article 3
Eligibility

- 1) To be eligible for the measures, an official of the Commission must fulfil the criteria set out in paragraphs 2 and 3.
- 2) On the final date for applications for the relevant round, the official concerned must belong to a grade other than grades A1 and A2, and be:
 - a) in active employment within the meaning of Article 35(a) of the Staff Regulations²; or

² Regulation (EEC, Euratom, ECSC) No. 259/68, OJ L 56, p. 1

- b) on secondment in the interest of the service within the meaning of Article 37(a) of the Staff Regulations; or
 - c) on secondment at his/her own request within the meaning of Article 37(b) of the Staff Regulations if the secondment commenced less than 6 months before the deadline for applications. However, those officials must have been reinstated before the deadline.
- 3) The official must on the relevant date as defined in Article 2(2), have reached the age of 55, and must also have completed at least fifteen years of service as an official and/or temporary staff in one of the Institutions within the meaning of Article 1 of the Staff Regulations and/or in one of the Community agencies³.
 - 4) For the purpose of determining the period of service referred to in paragraph 3, only the following periods of service shall be taken into account:
 - a) active employment within the meaning of Article 35(a) of the Staff Regulations;
 - b) employment as a temporary agent pursuant to Article 2 of the Conditions of Employment of other Servants ("CEOS")⁴, but excluding any periods of unpaid leave pursuant to Article 16, third paragraph, or Article 17 CEOS or of leave for national service pursuant to Article 18 CEOS;
 - c) secondment pursuant to Article 37 of the Staff Regulations.

*Article 4
Applications*

- 1) The Director-General of DG Personnel and Administration shall invite applications for each round. The invitation shall be published in the Administrative Notices and shall specify the deadline for applications and the form in which they are to be made.
- 2) Officials wishing to benefit from the measures for a specific round shall lodge an application, in conformity with the Administrative Notice. Applications may only be submitted for a given round. If unsuccessful in that round, the official who wishes to be considered for a subsequent round must make a new application for that purpose.
- 3) The submission of an application may not be taken into consideration for any purposes relating to the official's career other than for those of considering whether the official should benefit from the measures applied for.

*Article 5
Assessment of applications by Commission departments*

- 1) The department to which the official is assigned shall carry out a preliminary examination of the eligibility of the application by reference to the criteria set out in Article 3.

³ Annex I contains a list of the currently existing Community agencies

⁴ Regulation (EEC, Euratom, ECSC) No. 259/68, OJ L 56, p. 1

Where the application appears to be eligible following this examination, the department concerned shall assess the interest of the service in the application of the measures to each applicant taking into account the criteria set out in paragraphs 3, 4, 5, 6 and 7.

- 2) For each round, each Directorate-General and Service shall draw up a list of applicants per category on the basis of the criteria set out in paragraphs 3, 4, 5, 6 and 7.

Within each category, the eligible applicants shall be listed in alphabetical order, in three groups depending on whether the interest of the service in the measure being applied to the person concerned is considered to be high, low or non-existent.

A standard information sheet per applicant, in the form set out in Annex II, containing an assessment of each criterion referred to in paragraphs 3, 4, 5, 6 and 7 shall be attached to the list.

- 3) Where, in respect of a given applicant, the Directorate-General or Service considers that there is no interest of the service in the measure being applied, that applicant may not be selected unless the Director-General of DG ADMIN considers that there are exceptional circumstances justifying the selection.
- 4) The measures shall, in principle, not be applied to an applicant whose last staff report is above the average for his grade for the Directorate-General or Service that established the report. Under duly justified exceptional circumstances, the Director-General for Personnel and Administration may grant a derogation from this principle.
- 5) The following criteria concerning the official's tasks shall be considered as conferring high priority on his application with regard to the interest of the service:

a) Criteria relating to reorganisation measures (with decreasing priority):

- i) cessation of the official's tasks as a result of current reorganisation measures, where no suitable new tasks have been identified for the official and are not likely to be identified in the near future;
- ii) current reorganisation or redeployment measures affecting the official which make it difficult to find him a new assignment because his skills are very specialised or are not readily usable by the Commission;
- iii) recent reorganisation or redeployment measures affecting the official which resulted in the official being assigned new tasks which have not proved appropriate to his skills; or
- iv) likelihood of reorganisation or redeployment measures affecting the official in the near future, in particular where his current tasks are likely to be phased out or are likely to be considered as no longer being a priority task for his Directorate-General or service, and where identifying a new assignment is likely to prove difficult because of the official's level of specialisation or because his skills are not readily usable by the Commission.

b) criteria relating to the official's skills:

- i) the official's skills do not meet the requirements to perform his duties, as defined in the Job Information System (JIS); or

ii) the official's duties do not correspond to the official's career bracket;

and where, in either case, identifying an appropriate new assignment is likely to prove difficult because of the official's level of specialisation or because his skills are not readily usable by the Commission.

- 6) For the purposes of the previous paragraph, an application shall not be considered as having high priority if the difficulty can be eliminated or substantially reduced by training measures unless such training measures would require disproportionate time and resources.
- 7) In drawing up the list referred to in paragraph 2, the department can also take into account a particular personal situation, put forward by the applicant, requiring his presence at home or at a place other than the place of assignment.

Cases where spouses are both in the service of the Commission and both apply for early retirement shall be considered individually as two independent cases.

Article 6

Selection procedure by DG Personnel and Administration

- 1) On the basis of the lists referred to in Article 5, the Director-General for Personnel and Administration shall verify the eligibility criteria contained in Article 3 and draw up a proposal for a maximum of 220 candidates for each of the first two rounds. For the third round, the proposal shall contain a number of candidates which, added to the number of persons to whom the measures have been applied in the previous round, would lead to a maximum total of 620 persons.
- 2) Applicants who are found not to meet the eligibility criteria shall be informed in writing, with an indication of which criteria were found not to be met.
- 3) The candidates in each proposal referred to in paragraph 1 shall be presented by category, taking into account:
 - a) the need to ensure consistent application by the different departments of the selection criteria set out in Article 5;
 - b) the interest of the service, in particular, having regard to the need to renew skills within the Commission;
 - c) the attribution of high priority to candidates whose career record shows that both the last two promotions took longer than average;
 - d) the attribution of a negative priority to an official's application where:
 - i) his career record shows that both the last two promotions were faster than average;
 - ii) the official has recently been promoted, unless he had acquired a very high seniority in his previous grade;
 - iii) the official would be entitled to maximum pension rights for retirement within two years of the end of the year during which he has made the application;

- e) The impact of the measures on the establishment plan and on the staff structure (in particular distribution between categories, departments and budgetary assignment);
- f) The requirement that the average allowance not exceed 62,5% of the last basic salary.

Article 7
Consultation of the Joint Committee

The draft proposal referred to in Article 6(1) shall be submitted to the Joint Committee which shall give its opinion within 15 working days pursuant to Article 10a of the Staff Regulations.

Article 8
Adoption of the list by the Commission

- 1) After the Joint Committee has given its opinion or, in the absence of an opinion within the time-limit set out in Article 7, the Commission shall adopt an alphabetical list of the officials to whom the measures will be applied.
- 2) The lists for the first and second rounds shall each comprise a maximum of 200 officials. The list for the third round shall comprise a maximum number of officials being the difference between the total of those to whom the measures were applied during the first two rounds, and 600.
- 3) The Commission shall, on the same basis and for each round, adopt a reserve list comprising, in order of priority, up to 20 officials.

Article 9
Implementation of the Commission Decision

- 1) The selected applicants shall be informed of their selection in writing. They shall have a period of 10 working days from notification, during which they may withdraw their application. If an application is withdrawn, the highest-placed applicant on the reserve list shall automatically replace him. The first sentence shall apply by analogy to this applicant, who, in the event of his withdrawal, shall automatically be replaced by the next-highest placed applicant on the reserve list who shall have the same right of withdrawal, the same procedure continuing if necessary thereafter.

The final list of officials to whom the measures will be applied shall be published in the Administrative Notices.

- 2) The dates on which the individual measures take effect shall be determined by the Director-General of DG Personnel and Administration, after consulting the relevant Director-General or Head of Service. These dates shall be no later than 6 months after the Commission's decision referred to in Article 8 provided that the official has reached the required age and seniority.

ANNEX I

List of agencies referred to in Article 3(3)

These are at the moment (in chronological order as per adoption of the Regulation creating them):

- the European Centre for the Development of Vocational Training (Thessaloniki); Regulation (EEC) No. 337/75;
- the European Foundation for the Improvement of Living and Working Conditions (Dublin); Regulation (EEC) No. 1365/75;
- the European Environment Agency (Copenhagen); Regulation (EEC) No. 1210/90;
- the European Training Foundation (Turin); Regulation (EEC) No. 1360/90
- the European Monitoring Centre for Drugs and for Drug Addiction (Lisbon); Regulation (EEC) No. 302/93
- the European Agency for the Evaluation of Medicinal Products (London); Regulation (EEC) No.2309/93;
- the Office for Harmonisation in the Internal Market (trademarks and designs) (Alicante); Regulation (EC) No. 40/94;
- the European Agency for Safety and Health at Work (Bilbao); Regulation (EC) No. 2062/94:
- the Community Plant Variety Office (Angers); Regulation (EC) No. 2100/94;
- the Translation Centre for the Bodies of the European Union (Luxembourg); Regulation (EC) No. 2965/94;
- the European Monitoring Centre on Racism and Xenophobia (Vienna); Regulation (EC) No. 1035/97;
- the European Agency for Reconstruction (Thessaloniki); Regulation (EC) No. 2454/1999;
- the European Food Safety Authority (Brussels (prov.)); Regulation No. (EC) 178/2002;
- the European Maritime Safety Agency; Regulation (EC) No. 1406/2002;
- the European Aviation Safety Agency; Regulation (EC) No. 1592/2002.

Annex II

Exclusion criterion (justification for derogation required)		REF	YES		NO	COMMENTS
	(1) Was the last staff report above the average for the grade in the DG or service to which the official is assigned?	Art. 5 (4)				
Priority criteria			YES, absolutely	YES to a lesser extent	NO	
HIGH PRIORITY CRITERIA	(2) Have the official's tasks been suppressed by current reorganisation measures and is it impossible to identify suitable new tasks for the official immediately or in the near future?	Art. 5 (5) a) i)				
	(3) Do current reorganisation or redeployment measures affect the official and is it difficult to find a new assignment because his or her skills are very specialised or not readily usable by the Commission?	Art. 5 (5) a) ii)				
	(4) Has the official been affected by recent reorganisation or redeployment measures and do the new tasks assigned to the official match satisfactorily with his or her skills?	Art. 5 (5) a) iii)				
	(5) Is it likely that the official will be affected by a reorganisation or redeployment measure in the near future (e.g. because their current tasks are being phased out or do not contain sufficient added value to the Directorate-General or service) and are his or her skills so specialised or not readily usable by the Commission that identifying a new assignment is likely to prove difficult?	Art. 5 (5) a) iv)				

HIGH PRIORITY CRITERIA	(6) (a) Do the official's skills correspond with the qualifications required to perform his or her duties, as defined in the Job Information System (JIS) ?	Art. 5 (5) b) i)				
	(b) Do the official's duties correspond to the official's grade?	Art. 5 (5) b) ii)				
	If NO for criteria (6a) or (6b) : (c) Are the official's skills so specialised or not readily usable by the Commission so that identifying a new, adequate assignment is likely to prove difficult?	Art. 5 (5)				
	(7) (a) Can the problem in re-assigning (see criteria (2) to (6)) the official to a new task be addressed by training measures?	Art. 5 (6)				
	If YES for criteria (7)(a) (b) Would training measures require disproportionate time and resources?	Art. 5 (6)				
	(8) Does the candidate's application put forward a particular personal situation that requires his presence at home or at a place other than the place of assignment?	Art. 5 (7)				
	CONCLUSION/GENERAL ASSESSMENT		HIGH	LOW	ABSE NT	
	Is it, generally and taking into account the priority criteria, considered to be in the interest of the service to terminate the service of the official?					

	Supplementary information					
	Does the career record of the official show that the last two promotions took longer than average?	Art. 6) (3) c)				
	If YES: Can this trend be confirmed by the Director-General of the service to which the official is currently assigned?					