



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 29.4.2009
C(2009) 3074 final

COMMISSION DECISION

amending Decision C(2007) 5730 of 30 November 2007 on the exercise of powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Responsible for Concluding Contracts of Employment

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amending Decision C(2007) 5730 of 30 November 2007 on the exercise of powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Responsible for Concluding Contracts of Employment

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to Article 2(1) of the Staff Regulations of Officials of the European Communities,

Having regard to Article 6 of the Conditions of Employment of Other Servants,

Whereas:

- (1) On 30 November 2007¹, the Commission adopted a decision on the exercise of powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of Employment of Other Servants on the Authority Responsible for Concluding Contracts of Employment.
- (2) While respecting the independence of the Antifraud Office (OLAF) there is a need to reduce the administrative burden of both the Commission and the tripartite body as defined in Table VI (Discipline) regarding the disciplinary proceedings.
- (3) To reduce the administrative burden of the Commission and to make the disciplinary proceedings more flexible, it is appropriate to delegate, as a general rule, its appointing authority powers to refer a case to the Disciplinary Board, withdraw a case from the Disciplinary Board and suspension for serious misconduct to the Member of the Commission responsible for personnel.
- (4) To reduce the administrative burden of the tripartite body as defined in Table VI (Discipline) and to make the disciplinary proceedings more flexible, it is appropriate to delegate its appointing authority powers to decide on penalty and to organise hearing preceding a possible penalty, in cases not referred to the Disciplinary Board, and its appointing authority powers to withdraw a case from the Disciplinary Board, to the Director-General for Personnel,

HAS DECIDED AS FOLLOWS:

Article 1

Commission Decision C(2007)5730 of 30 November 2007 on the exercise of powers conferred by the Staff Regulations on the Appointing Authority and by the Conditions of

¹ See Commission Administrative Notice No 57-2007 of 6 December 2007.

Employment of Other Servants on the Authority Responsible for Concluding Contracts of Employment, amended by Commission Decision C(2008)384, is hereby amended as follows:

- in the Annex “AA Table for Commission staff paid from the administrative budget and the research budget (except JRC)”, Table VI is replaced by Annex I to this Decision;
- in the Annex “AA Table/research budget/JRC”, Table VI is replaced by Annex II to this Decision;
- in the Annex “AA Table/OLAF”, Table VI is replaced by Annex III to this Decision.

Article 2

This Decision shall take effect on the date of its adoption.

Done at Brussels, 29.4.2009

*For the Commission
Member of the Commission*

ANNEX I

AA TABLE

VI. DISCIPLINE (Administrative investigation, disciplinary procedure) and personal liability in cases of serious misconduct

SUBJECT	Articles of the Staff Regulations	Commission	Member of the Commission responsible for personnel	Director-General for Personnel	Director(s)-General concerned
1. Opening an administrative investigation	Art. 2(1) of Annex IX			For all officials (AD 16–AST1): Director-General for Personnel and Administration in agreement with the Secretary-General	
2. Report on the hearing in the context of the administrative investigation in cases of strictest confidentiality	Art. 2(1); 1(2) of Annex IX			For all officials (AD 16–AST1) : Secretary-General in agreement with the Director-General for Personnel and Administration.	
3. Informing the official concerned when an administrative investigation is closed	Art. 2(1) and 1(3) Annex of IX			For all officials (AD 16–AST1)	
4. Informing the official concerned when an administrative investigation ends and communicating to him/her the conclusions of the investigation report and other documents	Art. 2(2) of Annex IX			For all officials (AD 16–AST1)	
5. Preliminary hearing and initiation of disciplinary proceedings	Art. 3 of Annex IX		AD 16-AD 14 (1)(2)	AD 14-AST 1	
6. Referring cases to the Disciplinary Board	Art. 12 of Annex IX		AD 16-AD 14(2)(5)	AD 14-AST 1	
7. Withdrawing a case from the Disciplinary Board	Art. 14 of Annex IX		AD 16-AD 14(2)(5)	AD 14-AST 1	
8. Representation of the Appointing Authority before the Disciplinary Board.	Art. 16(2) of Annex IX				For all officials (AD 16–AST1): The Director of IDOC (3) or his/her representative.
9. Hearing preceding a possible penalty without referring the case to the Disciplinary Board	Art. 11; 14, 2nd para; 22(1) of Annex IX	AD 16-AD 14 (2)		AD 14-AST 1	
9a. Hearing preceding a possible penalty after referring the case to the Disciplinary Board (4)	Art. 11; 14, 2nd para; 22(1) of Annex IX	AD 16-AD 14 (2)		AD 14–AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors(-General).	
10. Penalty without referring the case to the Disciplinary Board	9 ; 11 ; 14, 2nd para; 22 of Annex IX	AD 16 - AD 14(2)		AD 14-AST 1	
10a. Penalty after referring the case to the Disciplinary Board (4)	9 ; 11 ; 14, 2nd para; 22 of Annex IX	AD 16-AD 14 (2)		AD 14–AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors(-General).	
11. Reimbursement of expenses in exceptional cases	21(2) Annex IX			For all officials (AD 16–AST1)	
12. Where case is closed without imposing any disciplinary penalty: informing the official concerned and, where appropriate, suitable publicity for this decision	Art. 22(2) and 29 of Annex IX			For all officials (AD 16–AST1)	

13. Reopening of disciplinary proceedings where new facts come to light	Art. 28 of Annex IX	AD 16-AD 14(2)		AD 14-AST 1	
14. Suspension in connection with an allegation of serious misconduct (preliminary hearing and decision)	Art. 23, 24 of Annex IX		AD 16-AD 14(2)	AD 14-AST 1	
15. Deletion of reference to disciplinary penalty from personal file	Art. 27 of Annex IX	AD 16- AD 14(2)		AD 14-AST 1	
16. Personal liability in cases of serious misconduct.(4)	22, 2nd para.	AD 16-AD 14(2)		AD 14-AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors(-General).	

- (1) The Member of the Commission may subdelegate the power to hold a preliminary hearing or designate a person to hold the hearing in his or her place.
- (2) For senior officials of grade AD 14 (directors and equivalent).
- (3) The Director is authorised, where necessary, to designate another IDOC official.
- (4) For Commission officials seconded to a Cabinet, it is the Director-General of the DG of origin or secondment who shares in the tripartite power. For Temporary Staff under Article 2(c), the term "Director-General in charge of the official" means the Head of Cabinet.
- (5) In respect of DG and DGA the Member of the Commission responsible for personnel takes the decision in agreement with the President.

ANNEX II

AA TABLES/Research/JRC

VI. DISCIPLINE (administrative investigation, disciplinary procedure) and personal liability in cases of serious misconduct

SUBJECT	Articles of the Staff Regulations	Commission	Member of the Commission responsible for personnel	Director-General for Personnel and Administration	Director-General JRC
1. Opening an administrative investigation.	Art. 2(1) of Annex IX			For all officials (AD 16-AST1): Director-General for Personnel and Administration in agreement with the Secretary-General	
2. Report on the hearing in the context of the administrative investigation in cases of strictest confidentiality.	Art. 2(1) and 1(2) of Annex IX			For all officials (AD 16-AST1) : Secretary-General in agreement with the Director-General for Personnel and Administration.	
3. Informing the official concerned when an administrative investigation is closed.	Art. 2(1) and 1(3) of Annex IX			For all officials (AD 16-AST1)	
4. Informing the official concerned when an administrative investigation ends and communicating to him/her the conclusions of the investigation report and other documents.	Art. 2(2) of Annex IX			For all officials (AD 16-AST1)	
5. Preliminary hearing and initiation of disciplinary proceedings.	Art. 3 of Annex IX		AD 16-AD 14 (1)(2)	AD 14-AST 1	
6. Referring cases to the Disciplinary Board.	Art. 12 of Annex IX		AD 16-AD 14(2)(4)	AD 14-AST 1	
7. Withdrawing a case from the Disciplinary Board.	Art. 14 of Annex IX		AD 16-AD 14(2)(4)	AD 14-AST 1	
8. Representation of the Appointing Authority before the Disciplinary Board.	Art. 16(2) of Annex IX	For all officials (AD 16-AST1): The Director of IDOC(3) or his/her representative			
9. Hearing preceding a possible penalty without referring the case to the Disciplinary Board	Art. 11; 14, 2nd para; 22(1) of Annex IX	AD 16-AD 14(2)		AD 14-AST 1	
9a. Hearing preceding a possible penalty after referring the case to the Disciplinary Board	Art. 11; 14, 2nd para; 22(1) of Annex IX	AD 16-AD14(2)		AD 14-AST11: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors (-General).	
10. Penalty without referring the case to the Disciplinary Board.	9; 11; 14, 2nd para; 22 Annex IX	AD 16-AD 14 (2)		AD 14-AST 1	
10a. Penalty after referring the case to Disciplinary Board	9; 11; 14, 2nd para; 22 Annex IX	AD 16-AD 14 (2)		AD 14-AST11: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-general from amongst Directors(-General) or Deputies Director (-General), The joint decision is taken by a majority of these tree Directors (-General),	
11. Reimbursement of expenses in exceptional cases.	21(2) Annex IX			For all officials (AD 16-AST1)	
12. Where case is closed without imposing any disciplinary penalty: informing the official concerned and, where appropriate, suitable publicity for this decision.	Art. 22(2) and 29 of Annex IX			For all officials (AD 16-AST1)	

13. Reopening of disciplinary proceedings where new facts come to light.	Art. 28 of Annex IX	AD 16-AD 14(2)		AD 14-AST 1	
14. Suspension in connection with an allegation of serious misconduct (preliminary hearing and decision).	Art. 23, 24 of Annex IX		AD 16-AD 14(2)	AD 14-AST 1	
15. Deletion of reference to disciplinary penalty from personal file.	Art. 27 of Annex IX	AD 16- AD 14(2)		AD 14-AST 1	
16. Personal liability in cases of serious misconduct.	Art. 22(2)	AD 16-AD 14(2)		AD 14-AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors(-General).	

(1) The Member of the Commission may subdelegate the power to hold a preliminary hearing or designate a person to hold the hearing in his or her place.

(2) For senior officials of grade AD 14 (directors and equivalent).

(3) The Director is authorised, where necessary, to designate another IDOC official.

(4) In respect of DG and DGA the Member of the Commission responsible for personnel takes the decision in agreement with the President.

ANNEX III

AA TABLE/OLAF

VI. DISCIPLINE (Administrative investigation, disciplinary proceedings) and personal liability in cases of serious misconduct

SUBJECT	Articles in the Staff Regulations	Commission	Member of the Commission responsible for personnel	Director-General for Personnel	Director OLAF
1. Opening of an administrative investigation	Annex IX, Art. 2(1)	For the Director of OLAF		For all other officials (AD 16-AST1): Director-General of Personnel and Administration in agreement with the Secretary-General	
2. Report of hearing in the context of an administrative investigation in cases of absolute secrecy	Art. 2(1) and 1(2) of Annex IX			For all officials (AD 16-AST1): Secretary-General in agreement with the Director-General for Personnel and Administration.	
3. Informing the official concerned when an administrative investigation is closed	Art. 2(1) and 1(3) of Annex IX			For all officials (AD 16-AST1)	
4. Informing the official concerned when an administrative investigation ends and communicating to him/her the conclusions of the investigation report and other documents	Annex IX, Art. 2(2)			For all officials (AD 16-AST1)	
5. Preliminary hearing and initiation of disciplinary proceedings	Annex IX, Art. 3	For the Director of OLAF	AD 16-AD 14 (1) (2)	AD 14-AST 1	
6. Referring cases to the Disciplinary Board	Annex IX, Art. 12	For the Director of OLAF	AD 16-AD 14 (2)	AD 14-AST 1	
7. Withdrawing a case from the Disciplinary Board	Annex IX, Art. 14	For the Director of OLAF	AD 16-AD 14 (2)	AD 14-AST 1	
8. Representation of the Appointing Authority before the Disciplinary Board	Annex IX, Art. 16(2)	For all officials (AD 16-AST1): the Director of IDOC (3) or his/her representative.			
9. Hearing preceding a possible penalty without referring the case to the Disciplinary Board	Annex IX, Art. 11; 14, para 2; 22(1)	AD 16-AD 14 (2)		AD 14-AST 1	
9a. Hearing preceding a possible penalty after referring the case to the Disciplinary Board	Annex IX, Art. 11; 14, para 2; 22(1)	AD 16-AD 14 (2)		AD 14-AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors-General).	
10. Penalty without referring the case to the Disciplinary Board	Annex IX, Art. 9; 11; 14 para 2; 22	AD 16-AD 14 (2)		AD 14-AST 1 (4)	
10a. Penalty after referring the case to the Disciplinary Board	Annex IX, Art. 9; 11; 14 para 2; 22	AD 16-AD 14 (2)		AD 14-AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors-General).	
11. Reimbursement of expenses in exceptional cases	Annex IX, Art. 21(2)			For all officials (AD 16-AST1)	
12. Where case is closed without imposing any disciplinary penalty: informing the official concerned and, where appropriate, suitable publicity for this decision	Annex IX, Art. 22(2) and 29			For all officials (AD 16-AST1)	

13. Reopening of disciplinary proceedings where new facts come to light	Annex IX, Art. 28	AD 16-AD 14 (2)		AD 14-AST 1	
14. Suspension in connection with an allegation of serious misconduct (preliminary hearing and decision)	Annex IX, Art. 23, 24	For the Director of OLAF	AD 16-AD 14 (2) (4)	AD 14-AST 1 (4)	
15. Deletion of reference to disciplinary penalty from personal file	Annex IX, Art. 27	AD 16-AD 14 (2)		AD 14-AST 1	
16. Personal liability in cases of serious misconduct	Art. 22(2)	AD 16-AD 14 (2)		AD 14-AST 1: these powers are exercised jointly by delegation by the Director-General for Personnel and Administration, the Director(-General) in charge of the official or temporary staff member concerned and a third official designated by the Secretary-General from amongst Directors(-General) or Deputies Director(-General). The joint decision is taken by a majority of these three Directors-General).	

- (1) The Member may delegate the power to carry out a preliminary hearing or designate a person to carry out the hearing in his/her place on his/her behalf.
(2) For senior officials of grade AD 14 (directors and equivalent).
(3) The Director is authorised, where applicable, to designate another IDOC official.
(4) In agreement with the Director of OLAF.