



EUROPEAN COMMISSION

Brussels, 7.5.2010
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COMMISSION DECISION

of 7.5.2010

**amending the Commission Decision of 18 June 2008 on general provisions for
implementing Article 45 of the Staff Regulations**

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THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of officials of the European Communities, laid down in Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 45 and 110 thereof,

Having consulted the Staff Committee,

Having consulted the Staff Regulations Committee,

Whereas:

- (1) On 18 June 2008 the Commission adopted general provisions for implementing Article 45 of the Staff Regulations, establishing a promotion system. It is necessary to amend the appeal procedure for this system in order to improve the way it is managed and reduce the administrative burden on the various parties involved.
- (2) It is also necessary to correct typing errors in references to the provisions of the Decision,

HAS DECIDED:

Article 1

The Commission Decision of 18 June 2008 on general provisions for implementing Article 45 of the Staff Regulations is hereby amended as follows:

1) Article 6 is replaced by the following:

"Article 6 - Appeal procedure

1. The jobholder may request a dialogue with the countersigning officer within 12 working days from the date on which all officials were invited to consult their promotion file or, at the very most from the time at which he could, as a diligent member of staff, have known of the proposal concerning him. A dialogue must take place if it has been requested. It is for information purposes only and must enable the jobholder to obtain an explanation of the promotion points allocated in his promotion file. If the countersigning officer is unable to hold

¹ OJ L 56, 4.3.1968, p. 1.

this dialogue with the jobholder the reporting officer may perform this task. Neither the request by the jobholder for a dialogue nor the dialogue itself shall have the effect of suspending the periods referred to in paragraph 2 of this Article and in Article 7(10) of the general provisions for implementing Article 43 of the Staff Regulations for accepting or refusing the report.

If the jobholder so requests, the reporting officer shall take part in the dialogue. The jobholder may arrange for another official to assist him during the dialogue.

2. Within 15 working days from the date on which all officials were invited to consult their promotion file or, at the very most from the time at which the official could, as a diligent member of staff, have known of the proposal concerning him, the jobholder may lodge an appeal against the formal intentions for the allocation of promotion points with the Joint Appraisal and Promotion Committee provided for in Article 4 of the general provisions for implementing Article 43 of the Staff Regulations. The jobholder may withdraw his appeal at any time.

3. The official concerned shall state the reasons for his appeal and indicate the goal he is pursuing with the appeal.

4. Appeals under paragraph 2 shall be submitted using the secure electronic system. Where an official is prevented from using the secure system, he may submit an appeal by means of a note addressed to the Head of the Unit in the Directorate-General for Human Relations which provides the secretariat of the Joint Appraisal and Promotion Committee.

5. After examining each appeal, the Joint Appraisal and Promotion Committee shall deliver a reasoned opinion, taking into account the criteria stipulated in Article 4(5) and (6), either dismissing the appeal or recommending to the Appointing Authority that a higher number of promotion points be allocated within the range of points for the official's performance level, as defined in Article 4(3).

6. If the official has also lodged a reasoned refusal to accept the report drawn up according to the general provisions for implementing Article 43 of the Staff Regulations, the Joint Appraisal and Promotion Committee shall wait until the report becomes final, in accordance with Article 8(6) of the general provisions for implementing Article 43 of the Staff Regulations, before issuing its opinion on the appeal referred to in this Article.

The first subparagraph shall not apply if the deadline referred to in Article 8(5) of the general provisions for implementing Article 43 of the Staff Regulations has passed.

7. If a Directorate-General has applied to the Joint Appraisal and Promotion Committee for an exemption pursuant to the third subparagraph of Article 4(4), the Committee shall, after comparing the merits of the officials in the given grade, address an opinion to the Appointing Authority, recommending, if appropriate, an increase in the overall number of promotion points available per performance level.

8. The opinions of the Joint Appraisal and Promotion Committee referred to in this Article shall be drafted by two central joint working parties, one for officials in function group AD, the other for officials in function group AST, each containing three members designated by the Director-General of the Directorate-General for Human Resources and three members designated by the Central Staff Committee. The Chair of each central joint working group

shall be designated by the Director-General of the Directorate-General for Human Resources. The Chair and full members shall each have at least one alternate.

Meetings of each central joint working group shall be convened by the Chair. The quorum required for central joint working group meetings shall be six full or alternate members, of whom three must have been designated by the Director-General of the Directorate-General for Human Resources and three by the Central Staff Committee. Draft opinions shall be adopted by simple majority of the members entitled to vote. When a draft opinion is adopted following a vote, the minority position shall be recorded in the draft. The Chair shall vote only in the case of a tied vote.

If necessary, the number of central working groups may be adjusted by decision of the Joint Appraisal and Promotion Committee concerned."

2) The last sentence in Article 7 is replaced by the following:

"The Appointing Authority shall take account of the final formal intention of the Director-General referred to in Article 5(6) and of the opinion of the Joint Appraisal and Promotion Committee under Article 6(5)."

3) Article 1 of Annex I is amended as follows:

a) In paragraph 2, "Article 6(2)" is replaced by "Article 4(2)".

b) In paragraph 3, third subparagraph, "Article 5(11)" is replaced by "Article 5(6)".

Article 2

This Decision shall enter into force on the day of its publication in an Administrative Notice.

Done at Brussels, 7.5.2010

For the Commission
Maroš ŠEFČOVIČ
Vice-President of the Commission