



EUROPEAN COMMISSION

Brussels, 6.5.2010
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COMMISSION DECISION

of 6.5.2010

**amending the Commission Decision of 18 June 2008 on general provisions for
implementing Article 43 of the Staff Regulations**

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THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of Officials of the European Communities and the Conditions of Employment of Other Servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Article 15(2) of the Conditions of Employment of Other Servants,

Having regard to the opinion of the Staff Committee,

Having consulted the Staff Regulations Committee,

Whereas:

- (1) On 18 June 2008 the Commission adopted general provisions for implementing Article 43 of the Staff Regulations, establishing an appraisal system. It is necessary to amend the appeal stage in order to improve the way it is managed and reduce the administrative burden on the various parties involved,

HAS DECIDED:

Article 1

The Commission Decision of 18 June 2008 on general provisions for implementing Article 43 of the Staff Regulations is hereby amended as follows:

- 1) The first sentence of Article 7(10) is replaced by the following:

"Within 15 working days from the date on which the jobholder was invited to consult his report, he shall accept the report without adding comments, accept the report whilst adding comments to the appropriate section, or refuse to accept the report, stating the reasons for refusal."

- 2) Article 8 is replaced by the following:

"Article 8 – Appeal procedure

¹ OJ L 56, 4.3.1968, p. 1.

1. After receiving his report the jobholder may, within 12 days from the date on which he was invited to consult his report, request a dialogue with the countersigning officer. 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 performance level specified in his appraisal report. If the countersigning officer is unable to conduct 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 period referred to in Article 7(10) 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. The jobholder's reasoned refusal to accept the report under Article 7(10) shall automatically result in the matter being referred to the competent Joint Appraisal and Promotion Committee, referred to in Article 4. The jobholder may withdraw his reasoned refusal to accept the report at any time.

3. The competent Joint Appraisal and Promotion Committee shall examine the reasoned refusal to accept the report and issue an opinion on the contested report. The Committee's opinion shall comprise:

- an operational conclusion recommending either that the report be confirmed or that it (and where appropriate the performance level) be amended;
- a statement of the reasons underlying the operational conclusion;
- the minority opinions expressed, if the opinion was not adopted unanimously.

The Committee shall not take the place of the reporting officer or the countersigning officer as regards appraising the jobholder's performance. It shall verify that reports have been drawn up fairly and objectively, i.e. where possible on a factual basis and in accordance with these general implementing provisions. It shall verify in particular that the procedure laid down in Article 7 has been followed. To this end, the Committee shall carry out the necessary consultations and shall have at its disposal any working documents which may assist it in carrying out its work.

4. The opinion of the Joint Appraisal and Promotion Committee shall be transmitted to the appeal assessor.

5. The appeal assessor shall confirm or amend the report within five working days. In doing so, he shall, in particular, take account of the Joint Appraisal and Promotion Committee's opinion.

The decision of the appeal assessor may not be based on facts which the jobholder has not yet had an opportunity to comment upon in the course of the appraisal or the appeal procedure, unless he is given an opportunity to do so by the appeal assessor.

Where the appeal assessor does not follow the recommendation of the Joint Appraisal and Promotion Committee he shall provide substantive reasons for his decision.

Where the appeal assessor decides to amend the report and the amendment affects the performance level, his decision does not have to comply with the maximum percentages referred to in Article 6(3).

Where the appeal is lodged by a jobholder who shares the same grade as the reporting or countersigning officer, and the Joint Appraisal and Promotion Committee's opinion has not been adopted unanimously, the appeal assessor shall pay particular attention to the appeal.

6. The report shall become final by decision of the appeal assessor. The jobholder shall be notified, by e-mail or other means, that the decision rendering the report final has been adopted, pursuant to this Article or Article 7, and that it may be consulted in the electronic system. If the decision rendering the report final was adopted under this Article, the jobholder shall at this point also have access to the appeal assessor's decision and the Joint Appraisal and Promotion Committee's decision. This notification shall constitute communication of the decision within the meaning of Article 25 of the Staff Regulations."

3) Annex II is amended as follows:

a) Article 1 is amended as follows:

i) In paragraph 1, the last sentence is replaced by the following:

"The Chair and full members shall each have at least one alternate."

ii) In paragraph 2, the last sentence is replaced by the following:

"The Chair and full members shall each have at least one alternate."

iii) In paragraph 5, the last sentence is replaced by the following:

"The Chair shall vote only in the case of a tied vote."

b) Article 2 is replaced by the following:

"Article 2 – Joint working groups

1. *Seven joint working groups, each for a group of services, shall be set up for each Joint Appraisal and Promotion Committee, in order to prepare the deliberations of the Committee. To this end, the working groups shall issue a draft opinion to the Joint Appraisal and Promotion Committee on the appeals lodged.*

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

2. The Chair of each joint working group shall be designated by the Director-General of the Directorate-General for Human Resources. Each joint working group shall consist of two full members designated by the Director-General of the Directorate-General for Human Resources and two members designated by the Staff Committee. The Chair and full members shall each have at least one alternate.

3. Meetings of each joint working group shall be convened by the Chair. The quorum required for joint working group meetings shall be four full or alternate members, of whom two must

have been designated by the Director-General of the Directorate-General for Human Resources and two 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."

Article 2

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

Done at Brussels, 6.5.2010

For the Commission
Maros SEFCOVIC
Vice-President of the Commission