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**COMMISSION DECISION**

**of 22.10.2013**

**on general provisions for implementing Article 45a of the Staff Regulations**

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### on general provisions for implementing Article 45a of the Staff Regulations

THE EUROPEAN COMMISSION,

Having regard to the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union, as laid down by Council Regulations No 31 (EEC) and No 11 (EAEC)<sup>1</sup>, and in particular Article 45a thereof,

After consulting the Staff Committee,

After consulting the Staff Regulations Committee,

Whereas:

- (1) In accordance with Article 45a of the Staff Regulations, a certification procedure must be established in order to facilitate the selection of officials from function group AST, from grade 5 and above, who are suitable for appointment to a post in function group AD.
- (2) Under Article 45a(5) each institution is to adopt general provisions for implementing the certification procedure.
- (3) To this end, rules for implementing the certification procedure were adopted on 20 November 2007<sup>2</sup>.
- (4) Those implementing rules need to be amended to adapt them to the new appraisal system adopted by the Commission<sup>3</sup>, to simplify the procedure by streamlining the system and to improve the long-term management of appointments in the AD function group made on the basis of certification.
- (5) While not ignoring the individual's level of education, the purpose of certification is essentially to recognise that an AST official has acquired the skills required to become an AD on the basis of his or her merit, professional experience and the training received in the course of his or her professional career,

HAS DECIDED AS FOLLOWS:

#### *Article 1*

##### *Frequency of the certification exercise*

1. The appointing authority shall decide each year whether to organise a certification exercise, taking into account the maximum percentage of appointments in function group AD laid down in Article 45a(4) of the Staff Regulations. The certification exercise shall be launched by the publication of a call for expressions of interest.

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<sup>1</sup> Council Regulations No 31 (EEC) and No 11 (EAEC) of 18 December 1961, OJ P 45, 14.6.1962, p. 1385.

<sup>2</sup> Commission Decision C(2007) 5694 of 20.11.2007, as amended by Decision C(2011) 5326 of 10.8.2011.

<sup>3</sup> Commission Decision C(2011) 8186 of 14.11.2011.

2. The appointing authority may decide not to organise a certification exercise in the light of very limited recruitment forecasts or budgetary constraints. It shall consult the Joint Certification Committee and explain its reasons for not organising the procedure.

#### *Article 2*

##### *Joint Certification Committee and Joint Certification Panel*

1. A Joint Certification Committee shall be established under the terms of the Annex to this Decision.
2. A Joint Certification Panel shall be established within this Committee, under the terms of that Annex, to interview the selected candidates whose names appear on the list referred to in Article 7(4).

#### *Article 3*

##### *Stages in the certification procedure*

The certification procedure shall comprise eight stages: (a) determination of the number of officials who will be authorised to take part in the training programme and publication of a call for expressions of interest; (b) establishment by the appointing authority of the list of eligible candidates; (c) establishment by the appointing authority of the list of candidates selected for interview by the Joint Certification Panel; (d) establishment by the appointing authority of the list of officials authorised to take part in the training programme; (e) participation in the training programme; (f) organisation of written and oral tests and establishment by EPSO of the list of officials who have passed the tests demonstrating that they have successfully completed the training programme; (g) publication by the appointing authority of the list of Commission officials who have passed the tests; (h) appointment to posts in function group AD.

#### *Article 4*

##### *Number of officials who will be authorised to take part in the training programme and publication of a call for expressions of interest*

1. At the beginning of each certification exercise, in consultation with the Committee provided for in Article 2(1), the appointing authority shall determine the number of officials to be authorised to take part in the training programme referred to in Article 45a(1) of the Staff Regulations.
2. Following that decision, the appointing authority shall publish a call for expressions of interest, specifying the information that must be provided in order to apply for the certification procedure.

#### *Article 5*

##### *Draft list of eligible candidates*

1. Subject to the provisions of paragraph 2, certification is open to officials in function group AST who have been appointed to an established post in the Commission in accordance with Article 1a of the Staff Regulations and who, on the closing date of the call for expressions of interest fulfil each of the three conditions set out below, defined according to the needs of the service:

- a) the official must be in function group AST at grade 5 or above. The retroactive effect of a promotion occurring after the closing date of the call for expressions of interest will not be taken into account;
  - b) the official must be in active employment, on secondment in the interest of the service, on parental leave or on family leave;
  - c) two of the last three reports referred to in Article 43 of the Staff Regulations must state that the official has the potential required to take on the functions of an administrator.
2. However, the following officials may not apply:
- a) those who, during the year in question or the following year, are to be automatically retired under Article 52 of the Staff Regulations;
  - b) those in respect of whom the Commission has adopted a decision resulting in the definitive termination of their service within the meaning of Article 47 of the Staff Regulations;
  - c) those to whom the Commission has granted an invalidity allowance under Article 78 of the Staff Regulations.
3. Officials who satisfy the conditions set out in paragraph 1 and do not fall into one of the categories mentioned in paragraph 2 shall be eligible, provided that they have submitted their application and all the requisite information specified in the call for expressions of interest by the closing date.
4. The appointing authority shall draw up a draft list of officials eligible for the certification exercise on the basis of the criteria referred to above.
5. The detailed rules for applying the above criteria shall be decided by the appointing authority after consulting the Committee provided for in Article 2(1). They may be amended for each certification exercise by decision of the appointing authority.

#### *Article 6*

##### *Draft list of candidates selected for interview by the Joint Certification Panel*

1. The appointing authority shall forward to each directorate-general and service the draft list of eligible candidates and the applications of the eligible candidates for which the directorate-general or service is responsible.  
  
The directorate-general or service responsible shall be that to which the eligible applicant is assigned on the date of signature of his/her application for the certification procedure.
2. Each directorate-general and service shall select a number of its candidates whose names appear on the list of those eligible. Those selected will be placed on a draft list of candidates to be interviewed by the Joint Certification Panel referred to in Article 2(2).  
  
The selection process must be transparent and must comply with the maximum number of candidates to be selected by directorate-general and service, as determined by the appointing authority. It must be duly justified and, within the framework of a comparative analysis guided by the needs of the service, must take account of:
  - a) merit, as indicated in the reports referred to in Article 43 of the Staff Regulations;

- b) relevant professional experience;
  - c) the level of responsibility exercised and the ability and motivation demonstrated by the candidates to carry out the duties of an administrator, particularly as regards the way they have performed or are performing the tasks entrusted to them;
  - d) the relevant level of education and training, as demonstrated by officially recognised qualifications/diplomas.
3. Guidelines setting out the criteria and selection process for the candidates put forward for interview by the Joint Certification Panel shall be drawn up by the appointing authority after consulting the Committee referred to in Article 2(1). They shall be communicated to the directorates-general and services and made known to staff. They may be amended at the beginning of each certification exercise.

#### *Article 7*

##### *Finalisation of the list of eligible candidates and the list of candidates selected for interview by the Joint Certification Panel*

1. The appointing authority shall publish the draft list of eligible candidates, referred to in Article 5, and the draft list of candidates referred to in Article 6, who have been selected for interview by the Joint Certification Panel provided for in Article 2(2).
2. Officials who have applied and believe that they meet the criteria set out in Article 5 but have not been included on the list of eligible candidates, and officials who contest their omission from the list of candidates selected for interview by the Joint Certification Panel, may appeal to the Committee provided for in Article 2(1) within five working days of the publication of the respective list. They must state the reasons for their appeal and supply all the relevant supporting documents and information.
3. The Committee shall deliver a majority opinion which it shall communicate to the appointing authority.
4. The appointing authority shall draw up and publish the final list of eligible candidates and the list of candidates selected for interview by the Joint Certification Panel.
5. Candidates who have submitted an appeal shall be informed of the Committee's opinion and the appointing authority's decision.

#### *Article 8*

##### *Establishment of the list of officials authorised to take part in the training programme*

1. The appointing authority shall send the Joint Certification Panel referred to in Article 2(2) the list of candidates selected for interview by the Panel, together with those candidates' applications.
2. The Joint Certification Panel shall interview the candidates in question in order to draw up a preliminary draft list of officials authorised to take part in the training programme, with due regard for the maximum number referred to in Article 4(1). The Panel's selection method will be explained in detail in the guidelines referred to in Article 6 and will be based on the criteria set out in paragraph 2 of that Article.

3. The grounds on which the preliminary draft list is drawn up must be stated and account must be taken of the needs of the service and, in particular, the factors referred to in Article 6(2).
4. The preliminary draft list shall be presented to the appointing authority which will return it, with an explanation of any amendments it has made, then transmit it to the Joint Committee in the form of a draft list, as provided for in the first subparagraph of Article 45a(2) of the Staff Regulations.
5. Within 15 working days, the Joint Committee shall issue the majority opinion provided for in the second subparagraph of Article 45a(2) of the Staff Regulations. The Committee shall transmit its opinion to the appointing authority.
6. The appointing authority shall approve and publish the final list of officials authorised to take part in the training programme.
7. Any candidate who was interviewed by the Joint Certification Panel but not authorised to attend the training may lodge a complaint under Article 90 of the Staff Regulations.

#### *Article 9*

##### *Participation in the training programme*

1. Under Article 2(2) of the Staff Regulations, the Commission shall delegate the design and organisation of the training programme to the European School of Administration ('the School of Administration'), in accordance with Article 1 of Decision 2005/119/EC<sup>4</sup>.
2. Any official who is included on the list referred to in Article 8(6) and who is on parental leave, family leave or maternity leave before or during the period of the training programme shall be authorised to take part in the training programme the following year without having to submit a new application.
3. The Commission shall obtain assurances from the School of Administration that the training programme will be organised in such a way that officials working in places of employment other than Brussels or Luxembourg and officials authorised to work part-time under Article 55a(2) of the Staff Regulations are able to participate.

#### *Article 10*

##### *Organisation of written and oral tests*

##### *and establishment of the list of officials who have passed the tests demonstrating that they have successfully completed the training programme*

1. The European Personnel Selection Office ('EPSO') shall be responsible for the content of the written and oral tests and for their organisation. Pursuant to Article 2(2) of the Staff Regulations, the Commission shall delegate the establishment of the list of officials who have passed the tests to EPSO.
2. Only officials whom the School of Administration certifies as having followed the programme shall be authorised to sit the tests.

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<sup>4</sup> Decision 2005/119/EC of the Secretaries-General of the European Parliament, the Council, the Commission, the Court of Justice, the Court of Auditors, the European Economic and Social Committee and the Committee of the Regions and the Representative of the European Ombudsman of 26 January 2005 on the organisation and running of the European Administrative School (OJ L 37, 10.2.2005, p. 17).

3. Officials certified by the School of Administration as having followed the training programme but not included on the list referred to in paragraph 1 shall twice be allowed to re-sit the tests referred to in paragraph 1 that they have failed, provided they still fulfil the conditions referred to in Article 5(1)(a) and (b) and still do not fall into one of the categories mentioned in Article 5(2).

*Article 11*  
*Publication of the list of Commission officials*  
*who have passed the tests*

The appointing authority shall publish the list established by EPSO of officials who have passed the written and oral tests. This list shall have a limited period of validity which will run at least until 31 December of the year in which the 36-month period specified in Article 12(2) comes to an end. The period of validity shall be specified by the appointing authority in the call for expressions of interest and may be extended if necessary.

*Article 12*  
*Appointment to a post in function group AD*

1. Officials included on the list referred to in Article 11 may apply for vacant posts in function group AD corresponding to their grade as long as the list remains valid.
2. From the date of publication of the list of officials who have passed the written and oral tests, as referred to in Article 11, the directorate-general or service responsible, as referred to in Article 6(1), may at any time offer an official on the list a vacant post in function group AD which has been drawn to the attention of the certified officials by publication under Article 29(a)(ii) of the Staff Regulations.

Officials who appear on this list may, in the 18 months following the date of publication of the list, ask the directorate-general or service responsible within the meaning of Article 6(1) to offer them a post in function group AD. The directorate-general or service responsible shall have 36 months from the publication of the list to accede to this request. For the purposes of calculating the periods of 18 and 36 months referred to above, periods of leave on personal grounds or secondment at the request of the officials appearing on the list referred to in Article 11 shall not be included. The Director-General of the Directorate-General for Human Resources shall issue an implementing provision laying down detailed rules for applying the requirement referred to above.

3. The provisions of paragraph 2 shall apply subject to the relevant provisions of the Staff Regulations, and in particular Article 45a(4) thereof. They shall not apply to officials who have been authorised to take part in a training programme before the date of entry into force of this Decision. Their inclusion on the list of officials who have passed the written and oral tests shall remain valid for an indefinite period.

*Article 13*  
*Final provisions*

1. This Decision shall enter into force on the day following that of its adoption.
2. It replaces the general provisions for implementing Article 45a of the Staff Regulations adopted by the Commission on 22 November 2007 and amended on 10 August 2011. It shall apply from the 2013 certification exercise onwards.

Done at Brussels, 22.10.2013

*For the Commission*  
*Maroš ŠEFČOVIČ*  
*Vice-President*



## ANNEX - JOINT BODIES

### *Article 1*

#### *Joint Certification Committee*

1. The Joint Certification Committee ('the Committee') shall be chaired by an official or temporary staff member holding the position of director, appointed by the Director-General of the Directorate-General for Human Resources. The same provisions shall apply to the Chair's alternate.
2. The Committee shall be composed of a further five officials or temporary staff members of function group AD, appointed by the Director-General of the Directorate-General for Human Resources, and five officials or temporary staff members of function group AD appointed by the Central Staff Committee. The Director-General of the Directorate-General for Human Resources and the Central Staff Committee shall also each appoint five alternates from function group AD.
3. The Chair and, in his or her absence, his or her alternate, shall have the right to vote. The Committee shall adopt its rules of procedure by a two-thirds majority of its members.

### *Article 2*

#### *Joint Certification Panel*

1. The Joint Certification Panel ('the Panel') shall be chaired by the Chair of the Committee referred to in Article 1 of this Annex, or by his or her alternate.
2. The Committee members appointed by the administration shall by common agreement select from their own numbers, or their alternates, the members of the Panel and their alternates. The Committee members appointed by the Central Staff Committee shall do likewise. If agreement cannot be reached, the appointment shall be made by the Director-General of the Directorate-General for Human Resources and the Central Staff Committee, respectively.
3. The Chair and, in his or her absence, his or her alternate, shall have the right to vote. The Panel shall adopt its rules of procedure and agree on its working methods by a two-thirds majority of its members.

### *Article 3*

#### *Conflict of interests*

1. In accordance with Articles 11 and 11a of the Staff Regulations, all members of the Committee or Panel, including the Chair, shall carry out their duties and conduct themselves solely with the interests of the European Union in mind and shall not deal with a matter in which, directly or indirectly, they have any personal interest such as to impair their independence.
2. If any member of the Committee or Panel, including the Chair, has a personal interest in a matter such as to impair his or her independence in the handling of that matter, he or she shall be replaced by the appropriate alternate and refrain from participating in the work of the Committee or Panel.

3. A conflict of interests shall be any situation where a member of the Committee or Panel, including the Chair, is called upon to decide on a matter which could appear, in the eyes of an external third party, as a possible source affecting the staff member's independence in the matter.

*Article 4*  
*Confidentiality principle*

The deliberations and documents of the Committee and Panel shall be confidential.

*Article 5*  
*Secretariat*

The secretariat shall be provided by the unit responsible for the certification procedure within the Directorate-General for Human Resources.