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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 20.11.2007
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COMMISSION DECISION

of 20.11.2007

laying down the general provisions for implementing Article 45a of the Staff Regulations

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THE COMMISSION OF THE EUROPEAN COMMUNITIES,

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 259/68,¹ and in particular Article 45a of the Staff Regulations,

After consulting the Staff Committee,

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Whereas:

- (1) The Staff Regulations, as amended on 1 May 2004, provide for two function groups: the assistants' function group (hereinafter referred to as "function group AST") and the administrators' function group (hereinafter referred to as "function group AD").
- (2) Under Article 45a of the Staff Regulations a certification procedure must be established whereby officials in grade 5 upwards of function group AST can be selected as being suitable for appointment to a job in function group AD.
- (3) Under Article 45a(5) each institution is to adopt general provisions for implementing the certification procedure.
- (4) To this end, the rules for implementing the certification procedure were adopted on 22 June 2005.²
- (5) These implementing rules should, however, be adapted in the light of the experience gained during the first certification exercises,

HAS DECIDED AS FOLLOWS:

Article 1: Purpose

1. The purpose of the certification procedure is to select officials³ in grade 5 upwards of function group AST as being suitable for appointment to a job in function group AD.

¹ OJ L 56, 4.3.1968. Regulation as last amended by Regulation (EC, Euratom) No 31/2005 (OJ L 8, 12.1.2005, p. 1).

² Commission Decision C(2005) 1940 of 22.6.2005.

2. Officials in grades 5 upwards of function group AST who have been appointed to a permanent post in the Commission in accordance with Article 1a of the Staff Regulations and who, on the date of publication of the call for applications, are seconded in the interests of the service or whose administrative status as referred to in Article 35 of the Staff Regulations is one of the following: active employment, parental leave or family leave, may apply for certification.

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 which took effect in the year in question.

Article 2: Frequency of the certification procedure

The certification procedure shall be organised annually.

Article 3: Stages in the certification procedure

The certification procedure shall comprise seven 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 applications; (b) establishment by the appointing authority of the list of admitted applicants and the list of pre-selected applicants; (c) establishment by the appointing authority of the list of officials authorised to take part in the training programme; (d) participation in the training programme; (e) organisation of written and oral tests and establishment by the appointing authority of the list of officials who have passed the tests demonstrating that they have successfully completed the training programme; (f) publication by the appointing authority of the list of Commission officials who have passed the tests; (g) appointment to jobs 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 applications

Each year, in consultation with the committee provided for in Article 11, 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.

Following that decision, the appointing authority shall publish a call for applications.

³

Including those paid from research appropriations in the general budget.

Article 5: Establishment of the list of admitted applicants and the list of pre-selected applicants

1. The officials referred to in Article 1(2) who apply for the certification procedure shall be admitted provided they meet, considering the needs of the services, both of the following conditions:
 - (a) The official concerned must have seniority in grade 5 or above — excluding the ex-C/C* or ex-D/D* career paths — of at least three years.
 - (b) One or several annual career development report(s) as referred to in Article 1 of the general provisions for implementing Article 43 of the Staff Regulations must state that the official has the potential required to take on the functions of an administrator.

The detailed rules for applying these criteria shall be decided by the appointing authority after consulting the committee provided for in Article 11. They may be adjusted each year by decision of the appointing authority.

2. During each certification exercise the appointing authority shall draw up a draft list of officials who have applied for and been admitted to the certification procedure on the basis of the above-mentioned criteria.
3. The appointing authority shall rank the admitted applicants on the basis of the following criteria:
 - merit as indicated in their annual career development reports;
 - their level of education as demonstrated by officially recognised qualifications/diplomas;
 - their recent professional experience acquired in the institutions in those fields where the Commission has identified particular needs.

The appointing authority shall establish two lists on the basis of the above-mentioned criteria: one list shall combine merit and level of education; a second list shall combine merit and recent professional experience. The highest-ranked applicants on the two lists, down to a ranking decided according to the number of posts determined in accordance with Article 4, shall be pre-selected. These officials are referred to as the pre-selected applicants.

The definition of the number of candidates to pre-select on each list and the detailed rules for applying the ranking criteria and for pre-selecting the candidates shall be decided by the appointing authority after consulting the committee provided for in Article 11. They may be adjusted each year by decision of the appointing authority.

4. The appointing authority shall publish the draft list of admitted applicants referred to in paragraph 2 and the draft list with the names of applicants pre-selected on the basis of the two rankings determined in accordance with paragraph 3.

All admitted applicants shall be notified of the number of points obtained and of their position in the two rankings established by the appointing authority on the basis of the criteria referred to in paragraph 3.

5. Officials who have applied and believe that they meet the criteria set out in paragraph 1 but who are not included on the list referred to in paragraph 2 and officials who contest the number of points obtained on the basis of the criteria referred to in paragraph 3 may appeal to the committee provided for in Article 11 within ten working days of the publication of the list.

They must state the reasons for their appeal and supply the committee referred to in Article 11 with all the relevant supporting documents and information.

The committee shall deliver an opinion and notify the appointing authority thereof. On the basis of this opinion, the appointing authority shall decide on the action to be taken.

6. The appointing authority shall adopt and publish the final lists of admitted and pre-selected applicants.

Article 6: Establishment of the list of officials authorised to take part in the training programme

1. The appointing authority shall identify those amongst the pre-selected applicants who will be allowed to follow the training programme, adhering to the number determined in accordance with Article 4. The points and ranking obtained during the pre-selection phase shall no longer be taken into account.
2. Each Directorate-General and service shall provide an opinion on each of the pre-selected officials and communicate it to the Directorate-General for Personnel and Administration.

This opinion shall be motivated and take the form of points allocated to the pre-selected applicants, taking into account the needs of the services and in particular:

- the responsibilities and duties currently performed by the pre-selected applicants as mentioned in their job description or other relevant documents, and how these responsibilities and duties are carried out by the applicants;
- their versatility on the basis of the various functions performed and responsibilities held within the European Institutions;
- the relevant training courses followed as mentioned in their training passport⁴; the ability to work in Community languages as required by the service; the ability to follow a training programme in French or English (given that the candidates may not follow the training referred to in Article 7 in their principal language).

⁴ NB: validation of the training map by the reporting officer means that the latter will allow the jobholder to follow the course(s) mentioned while taking into account the needs of the service.

The Directorate-General or service responsible shall be that to which the pre-selected applicant is assigned on the date of signature of his/her application for the certification procedure.

The common evaluation grids and guidelines for allocating the points and establishing the ranking, established by the appointing authority after consulting the committee provided for in Article 11, shall be communicated to the Directorates-General and services. They may be adjusted each year.

3. The threshold is the minimum number of points required in order to be allowed to take part in the training programme. The threshold is equal to the number of points obtained by the official ranked at a place corresponding to the number determined in accordance with Article 4.

The points allocated by the Directorates-General and services shall be submitted to the Directorate-General for Personnel and Administration, which shall publish the list of the applicants having reached or passed the threshold.

All pre-selected applicants shall be notified of the number of points obtained and of their ranking.

4. Pre-selected applicants who contest the number of points obtained on the basis of the criteria referred to in paragraph 2 may appeal to the committee provided for in Article 11 within ten working days of publication of the list.

They must state the reasons for their appeal and supply the committee referred to in Article 11 with all the relevant supporting documents and information.

5. The committee shall deliver an opinion and notify the appointing authority thereof. The committee shall, where necessary, propose modifying the ranking and the number of points granted even to pre-selected applicants who did not lodge an appeal.
6. Where the number of officials having reached or passed the threshold exceeds the number determined in accordance with Article 4, the committee shall adopt a substantiated proposal aimed at deciding between officials whose number of points coincides exactly with the threshold (the *ex-aequo* group). To that end, the committee shall take account of subsidiary factors such as the length in service as official or temporary member of staff in grade 5 or above — excluding the *ex-C/C** or *ex-D/D** career paths — and, where the length of service is the same, the principle of equal opportunities.
7. On the basis of the proposal of the committee, the appointing authority shall adopt the list of officials authorised to take part in the training programme. This list shall be published by the Directorate-General for Personnel and Administration.

Article 7: Participation in the training programme

Pursuant to Article 2(2) of the Staff Regulations, the Commission shall delegate authority for drawing up and organising the training programme to the European Administrative School (hereinafter referred to as “the School”), in accordance with the Decision 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 on the organisation and running of the European Administrative School.⁵

Any official who is included on the list referred to in Article 6(7) and who is on parental leave under Article 42a, family leave under Article 42b or maternity leave under Article 58 of the Staff Regulations 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.

The Commission shall ascertain from the School that the way in which the training programme is organised enables officials in post at places of employment other than Brussels or Luxembourg and officials authorised to work part-time under Article 55a(2) of the Staff Regulations to participate.

Article 8: 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 content of the written and oral tests shall be determined by the European Personnel Selection Office, hereinafter referred to as “EPSO”, and the School. Pursuant to Article 2(2) of the Staff Regulations, the Commission shall delegate organisation of the written and oral tests and establishment of the list of officials who have passed the tests to EPSO and to the School.
2. Only officials whom the School certifies as having followed the programme shall be authorised to sit the tests.
3. Officials certified by the School as having followed the training programme but not included on the list referred to in paragraph 1 shall be allowed to re-sit twice the tests referred to in paragraph 1 that they have failed, provided they still fulfil the conditions referred to in Article 1(2).

Article 9: 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.

Article 10: Appointment to a job in function group AD

1. Officials included on the list referred to in Article 9 may apply, with no time limit, for vacant posts in function group AD corresponding to their grade in accordance with the conditions laid down in Article 29(1)(a)(ii) and (b) of the Staff Regulations.
2. The Directorate-General for Personnel and Administration shall make every effort to ensure that the number of officials who have successfully completed the certification procedure and been appointed to jobs in function group AD is no more than 20% of the

⁵ OJ L 37, 10.2.2005, p. 17. Decision No 2005/119/EC of 26 January 2005.

total number of appointments⁶ in that function group. It shall check this every five years and, for the first time, in 2010.

Article 11: Joint certification committee

1. A joint certification committee shall be established.
2. The committee shall comprise the following: a chairperson and alternate both with the function of Director who are appointed by the Director-General for Personnel and Administration; five members and five alternate members belonging to function group AD who are appointed by the Director-General for Personnel and Administration, at least one member being an official paid from appropriations entered in the research budget, and five members and five alternate members belonging to function group AD who are appointed by the Staff Committee.
3. In the absence of the chairperson, the alternate shall preside. Alternate members may attend meetings even when full members are present; however, in that case they shall not be entitled to vote. Alternate members shall automatically be entitled to vote if the full member they represent is absent.

In addition, when fewer than five full members appointed by the Director-General for Personnel and Administration and/or fewer than five full members appointed by the Staff Committee are present, alternate members shall be entitled to vote provided the total number of members (full and alternate) entitled to vote does not exceed five appointed by the appointing authority and five appointed by the Staff Committee.

If the chairperson considers having an interest likely to compromise his/her independence when discussing a dossier, he/she shall stand down in favour of his/her alternate or cease to participate in the work of the committee for the time needed to deal with the dossier for which this interest might have an importance. If another committee member considers having such an interest, he/she informs the president who shall take appropriate measures.

4. The committee shall be convened by its chairperson. Its decisions shall be valid provided ten members entitled to vote are present, five of whom have been appointed by the Staff Committee. Opinions shall be adopted by simple majority of the members entitled to vote who are present. The chairperson shall vote only in the case of a tied vote.
5. At its first meeting the committee shall adopt its rules of procedure by a majority of two thirds of its members; the chairperson shall be entitled to vote.
6. At the beginning of each year the committee shall adopt an opinion on the results of the previous year's certification exercise. The opinion may be accompanied by recommendations. The committee shall notify the appointing authority of its opinion.

⁶ For officials paid from research appropriations in the general budget, appointments will be taken into account in the relevant establishment plan.

Article 12: revision clause

On the basis of the opinions referred to in Article 11(6) and of the results of at least two certification exercises, the Commission shall examine whether it is appropriate to modify the selection procedure.

Article 13: Final provisions

This Decision shall enter into force on the day following that of its adoption. It replaces the general provisions for implementing Article 45a of the Staff Regulations adopted by the Commission on 22.06.2005 and shall apply from the 2007 certification exercise.

Done at Brussels, 20 November 2007

For the Commission
S. KALLAS
Vice-President of the Commission