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Brussels, 16.12.2013
C(2013) 8968 final

COMMISSION DECISION

of 16.12.2013

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

COMMISSION DECISION

of 16.12.2013

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THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

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

After consulting the Staff Regulations Committee,

After consulting the Staff Committee,

Whereas:

- (1) The promotion system applicable to Commission officials is based on consideration of the comparative merits of the officials eligible for promotion, taking account of the reports on the officials, the use of languages in the execution of their duties other than the language for which they have produced evidence of thorough knowledge in accordance with Article 28(f) of the Staff Regulations and the level of responsibilities exercised by them.
- (2) The promotion system introduced by the Commission Decision of 14 November 2011 laying down general provisions for implementing Article 45 of the Staff Regulations (C(2011) 8190) needs to be adapted to the amendments to that article coming into force on 1 January 2014. For the sake of clarity and legal certainty that Decision should be replaced by this Decision,

HAS DECIDED AS FOLLOWS:

Article 1 - Scope

1. The general implementing provisions laid down by this Decision shall apply to the promotion of officials, with the exception of those in a grade higher than AD 13.
2. They shall not apply to promotions pursuant to Article 29(1)(a)(iii) of the Staff Regulations.

Article 2 – Annual promotion exercise

1. A promotion exercise shall be organised every year.
2. It shall be launched by the Directorate-General responsible for human resources by means of the publication of an Administrative Notice.

¹ OJ L 56, 4.3.1968, p. 1.

Article 3 – Officials eligible for promotion

Officials may be promoted if they satisfy all of the following conditions:

- by 31 December of the year of the promotion exercise, at the latest, they have achieved the minimum seniority in grade required by Article 45(1) of the Staff Regulations,
- at the time of the launch of the promotion exercise pursuant to Article 2(2), they occupy a post which corresponds to one of the types of post set out in Annex I, Section A, or in Article 30(1) or Article 31(1) of Annex XIII to the Staff Regulations for the grade to which they may be promoted,
- they have demonstrated before their first promotion after recruitment the ability to work in a third language among those referred to in Article 55(1) of the Treaty on European Union²,
- they are in active employment, on parental or family leave, on leave for military service or seconded in the interests of the service on the date on which the promotion decisions are adopted by the appointing authority, and
- their appraisal reports have become final in application of the general provisions for implementing Article 43 of the Staff Regulations, if a report was required under the terms of those provisions. In cases where an appraisal report has not been finalised as a result of a delay for which the jobholder cannot be held responsible, the jobholder shall nevertheless take part in the promotion procedure on the basis of other valid information replacing the staff report and may therefore be promoted.

Article 4 – Basis of the promotion procedure

1. The promotion procedure shall be based on the consideration of the comparative merits of the officials eligible for promotion. The secure electronic system used to administer the exercise shall contain the information required for this comparative examination. For the purposes of the examination, the appointing authority shall take into account, in particular:
 - (a) reports on the officials drawn up since their last promotion or, failing that, since their recruitment, and in particular staff reports drawn up in accordance with the general provisions for implementing Article 43 of the Staff Regulations;
 - (b) the use by the officials in the execution of their duties of languages other than the language for which they produced evidence of thorough knowledge in accordance with Article 28(f) of the Staff Regulations, and
 - (c) the level of responsibilities exercised by them.
2. If officials eligible for promotion have equal merit based on the three factors referred to in paragraph 1, the appointing authority may give subsidiary consideration to other factors.

² In accordance with the common rules laying down the procedure for implementing Article 45(2) of the Staff Regulations (common accord recorded by the President of the Court of Justice on 13 December 2006, internally published at http://www.cc.cec/statut/_en/ind_rule.htm.

Article 5 – Promotion procedure

1. The promotion exercise shall be launched only once the appraisal exercise organised in the same year has been finalised. The end of the appraisal exercise shall be announced by the Directorate-General responsible for human resources by means of the publication of an administrative notice.
2. At the start of the exercise, the Directorate-General responsible for human resources shall notify the Directorates-General³ of the arrangements for the current exercise, giving an indication of the financial resources available for the current year.
3. Within each Directorate-General, the Directors shall consult the reporting officer referred to in the general provisions for implementing Article 43 of the Staff Regulations.
4. In each Directorate-General, following the consultation under paragraph 3 above, the Director-General, Deputy Directors-General, Directors and, where appropriate, the Principal Advisers, shall proceed with the examination of the comparative merits of the officials eligible for promotion. If a Directorate-General is parent Directorate-General of an executive agency, the Executive Director of the executive agency shall participate in this examination, even if the Executive Director is seconded from another Directorate-General.
5. Following the examination in paragraph 4 above, the Director-General shall hold a discussion with a delegation appointed by the Central Staff Committee.
6. Following the discussion in paragraph 5 above, the Director-General shall communicate to all the Directorate-General's staff the list of the officials he or she wishes to propose for promotion and shall forward this list to the Joint Promotion Committee referred to in Annex I.
7. The jobholder shall have five working days from the date of publication of this list in which to lodge a complaint with the Joint Promotion Committee against the fact that he or she is not on the list, with supporting arguments. On receipt of the lists referred to in paragraph 6, the Joint Promotion Committee, taking into account any complaints it has received, shall compare the merits of the officials eligible for promotion and present for the attention of the appointing authority the list of officials it recommends for promotion. At the same time, it shall forward the complaints and the discrepancies, if any, referred to in Annex III.
8. Once it has received the information referred to in paragraph 7 above, and has at its disposal the files of all the officials eligible for promotion, the appointing authority shall carry out a final comparison of the merits of the eligible officials and, taking into account the budgetary resources available, shall adopt the list of officials promoted. Promotion shall entail the appointment of the official concerned to the next higher grade in the function group to which he or she belongs.
9. The list of officials promoted shall be published for the attention of all Commission staff, including the officials seconded in the interest of the service to an executive agency, by means of an administrative notice. Each official shall be invited to consult his/her promotion file.

³ The private offices of the Members of the Commission shall be treated as one directorate-general for the purposes of the promotion exercise. The Chef de cabinet of the Member of the Commission responsible for human resources shall perform the duties of director-general and the other Chefs de cabinet shall perform the duties of director.

10. Promotions shall take effect on 1 January of the year of the promotion exercise. If, on that date, the official does not have the seniority in the grade or does not occupy a post of the type required under Article 45(1) of the Staff Regulations, the promotion shall take effect on the first day of the first full month during which he or she possesses the necessary seniority or occupies a post of the required type.
11. Publication of the list of officials promoted referred to in paragraph 9 constitutes communication of the decision within the meaning of Article 25 of the Staff Regulations. The period of three months in which to lodge a complaint, provided for in Article 90(2) of the Staff Regulations, starts to run on the day following that of the publication of the list.
12. A Joint Monitoring Committee shall examine each promotion exercise. To this end, all relevant information shall be made available to the Monitoring Committee. After each promotion exercise, the Committee shall draw up a report that may contain recommendations. This report shall be sent to the Director-General of the Directorate-General responsible for human resources, the Directorates-General and the Staff Committee.

The Joint Monitoring Committee shall consist of two members designated by the Director-General of the Directorate-General responsible for human resources and two members designated by the Staff Committee. It shall be chaired by a member of the management of the Directorate-General responsible for human resources appointed by its Director-General.

Article 6 - Final provisions

1. The Commission Decision of 14 November 2011 laying down general provisions for implementing Article 45 of the Staff Regulations (C(2011) 8190) is repealed.
2. This Decision shall take effect on 1 January 2014 and shall apply as from the 2014 promotion exercise.

Done at Brussels, 16.12.2013

For the Commission
Maroš ŠEFČOVIČ
Vice-President