Pers Admin
Verwaltungsmitteilung
Administrative Notices
Informations administratives

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Brussels, 28.4.2004
C(2004) 1588

COMMISSION DECISION

General implementing provisions on the early retirement of officials and temporary agents without reduction of pension rights

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials 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 9 of Annexe VIII of these Staff Regulations and Article 39 of these Conditions of Employment;

Having regard to the opinion of the Staff Regulations Committee;

After consulting the Staff Committee;

Whereas:

1. The above-mentioned articles of the Staff Regulations and the Conditions of Employment lay down the obligation to establish objective criteria and transparent procedures by way of general implementing rules for the non-application of the reduction of pension rights.

2. Whereas these articles lay down that the possibilities of early retirement without reduction of pension rights each year shall be based on the total number of retirements of officials in all Institutions in the previous year.

3. Whereas the Commission will seek to ensure that at least 80% of the possibilities generated by its retirements will be used each year for the early retirement of its officials and temporary agents. It will also seek to ensure that over a five year period, 95% of its possibilities will be used for the early retirement of its officials,

HAS ADOPTED THE FOLLOWING PROVISIONS:

- *Article 1: Scope*
- *Article 2: Calculation of the number of possibilities*
- *Article 3: Call for applications*
- *Article 4: Eligibility*
- *Article 5: Assessment of application by Commission services*
- *Article 6: Selection procedure by DG Personnel and Administration*
- *Article 7: Consultation of the Joint Committee*
- *Article 8: Adoption of the list by the Appointing Authority*
- *Article 9: Implementation of the decision*
- *Article 10*

Article 1: Scope

These rules shall apply to officials and temporary agents in all Commission services including the Office for

official publications of the European Communities and the European Personnel Selection Office.

Article 2: Calculation of the number of possibilities

1. The number of possibilities each year shall be calculated on the basis of the total number of officials and former officials having begun to receive payment of the retirement pension in the previous year.

2. The number of officials and temporary agents in each institution who can benefit from the present provisions is fixed by way of consultation between the institutions.

Article 3: Call for applications

1. In September each year, the Director General for Personnel and Administration shall invite applications for such early retirement with effect from 1 January of the following year. The invitation shall be published in the Administrative Notices and shall

    a. indicate the potential number of possibilities;

    b. specify the deadline for applications and the form in which they are to be made;

    c. specify the conditions of eligibility.

2. Applications shall be lodged in conformity with the Administrative Notice. Applications may only be submitted with a view to retirement in the following year. Candidates who are unsuccessful are not obliged to retire and may reapply in successive years.

3. The submission of an application may not be taken into consideration for any other purposes relating to the candidate's career.

Article 4: Eligibility

1. To be eligible, the official or temporary agent must fulfil on 1 January of the following year the criteria set out in paragraphs 2, 3, 4, 5 and 6.

2. An official must be:

    a. in active employment, on leave for military service or on parental or family leave within the meaning of Article 35 of the Staff Regulations, or

    b. seconded in the interest of the service within the meaning of Article 37 (a) of the Staff Regulations

3. A temporary agent must be in active employment or on parental or family leave

4. The candidate must be at least 55 years old and not be able to retire without reduction in pension rights in the course of the year.

5. The candidate must fulfil the requirements of article 77 of the Staff Regulations as an official and/or temporary agent in one of the Institutions and/or Community agencies within the meaning of Articles 1a and 1b of the Staff Regulations.

6. For the purpose of determining the period of service referred to in paragraph 5, only the periods of service mentioned in paragraphs 2 and 3 shall be taken into consideration.

Article 5: Assessment of application by Commission services

1. The service to which the applicant is assigned shall carry out a preliminary examination of the application by reference to the criteria set out in Article 4.
Where the application appears to be eligible following this examination, the service concerned shall assess the interest of the service taking into account the criteria set out in paragraphs 4, 5, 6 and 7.

2. Each year, each Directorate General and Service shall draw up a list of applicants on the basis of the criteria set out in paragraphs 4, 5, 6 and 7.

    The eligible applicants shall be listed in three priority groups depending on whether the interest of

the service is considered to be high, low or non-existent. Applicants placed in the first and second priority groups shall be listed in order of priority irrespective of their category/function group, grade or status (official or temporary agent).

A standard information sheet per applicant, in the form set out in Annexe I, containing an assessment of each criterion referred to in paragraphs 4, 5, 6 and 7 shall be attached to the list.

3. Where for a given applicant, the Directorate-General or Service considers that there is no interest of the service, that application may not be selected unless the Director-General for Personnel and Administration considers that there are exceptional circumstances justifying the selection.

4. The following criteria concerning the applicant's tasks shall be considered as conferring high priority on his application with regard to the interest of the service:

   a. Criteria relating to reorganisation measures:

      i. cessation of the applicant's tasks as a result of current reorganisation measures, where no suitable new tasks have been identified and are not likely to be identified in the near future;

      ii. current reorganisation or redeployment measures affecting the applicant which make it difficult to find him a new assignment due to the nature of his skills;

      iii. recent reorganisation or redeployment measures affecting the applicant which resulted in being assigned new tasks which have not proved appropriate to his skills; or

      iv. likelihood of reorganisation or redeployment measures affecting the applicant in the near future, in particular where his current tasks are likely to be phased out or substantially modified or are likely to be considered as no longer being a priority task for his Directorate-General or service, and where identifying a new assignment is likely to prove difficult due to the nature of his skills

      v. the applicant occupies a sensitive post and would be obliged to change duties in the next 12 months and for which no suitable new post has been identified nor is likely to be identified within the 12 month period.

   b. Criteria relating to the applicant's skills:

      - where new job requirements do not correspond to the applicant's aptitudes and skills and where identifying an appropriate new assignment is likely to prove difficult.

5. For the purpose of the previous paragraph, an application shall not be considered as having high priority if the difficulty can be eliminated or substantially reduced by training measures unless such training measures would require disproportionate time and resources.

6. In establishing the priority groups referred to by paragraph 2 and the order of priority therein, the service can also take into account.

   - a particular personal situation, put forward by the applicant, requiring his presence at home or at a place other than the place of assignment.

   - the applicant's length of service with the Commission and/or his past positive contribution to the work of the service and/or the Commission.

7. In the first priority group representing a high interest of the service, the proposals of each service should not exceed 10% of the potential number of possibilities as indicated in the call for applications.

8. Cases where spouses are both in the service of the Commission and both apply for early retirement shall be considered individually as two independent cases.

Article 6: Selection procedure by DG Personnel and Administration

1. On the basis of the lists referred to in Article 5, the Director General for Personnel and Administration shall verify the compliance with the eligibility criteria contained in Article 4. Applicants who are not found to meet the eligibility criteria shall be informed in writing, with an indication of which criteria were found not to be met.

2. The Director General for Personnel and Administration shall draw up a proposal of the officials and temporary agents who should benefit from this possibility of early retirement. This proposal should consist of a list in two groups, the first comprising a number corresponding to at least 80% of the possibilities referred to in Article 4 and the second group comprising a reserve list corresponding to the remaining number of the possibilities of early retirements.

3. The proposal shall take account of:

   a. the need to ensure consistent application by the different services of the selection criteria set out in Article 5:

   b. the interest of the service, in particular, having regard to the need to renew skills within the Commission:

   c. the attribution of high priority to applicants not being able to retire without reduction of their pension rights within the following two years:

   d. the attribution of a particular high priority to applicants having 15 years or more of service.

   e. the need to respect budgetary neutrality over each two year period.

Article 7: Consultation of the Joint Committee top

The draft proposal referred to in Article 6(2) shall be submitted to the Joint Committee which shall give its opinion within 15 working days pursuant to Article 10a of the Staff Regulation.

Article 8: Adoption of the list by the Appointing Authority top

The distribution of the possibilities between the institutions is fixed every year by way of consultation between the institutions. Following these consultations, the Directorate General for Personnel and Administration shall submit the final list to the Appointing Authority for approval in order that the decision be taken in December.

Article 9: Implementation of the decision top

Non-selected applicants will be informed in writing with a reasoned decision.

The selected applicants shall be informed of their selection in writing and shall have a period of 10 working days from notification during which they may withdraw their request. If an official withdraws his application, the highest placed official on the reserve list shall automatically replace him; a temporary agent is automatically replaced by the highest placed temporary agent on the reserve list. This procedure will be repeated for each withdrawal. Selected applicants having accepted this possibility of early retirement will be able to retire at a date of their choosing within the calendar year.

Article 10 top

This decision shall enter into force on 1 May 2004

Done at Brussels, 28 April 2004.

Footnotes

(1) OJ L 56 of 4.3.68. Regulation as last amended by Regulation (EC, Euratom) No 723/2004 (OJ L 124, 27.4.2004, p. 1)

top

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ANNEX

Priority criteria			YES,		NO	Comments
HIGH PRIORITY CRITERIA	(1) Have the applicant's tasks been suppressed by current reorganisation measures and is it impossible to identify suitable new tasks for the applicant immediately or in the near future?	Art. 5 (4) a) i)				
	(2) Do current reorganisation or redeployment measures affect the applicant and is it difficult to find a new assignment due to the nature of his skills	Art. 5 (4) a) ii)				
	(3) Has the applicant been affected by recent reorganisation or redeployment measures and do the new tasks assigned to the official match satisfactorily with his skills?	Art. 5 (4) a) iii)				
	(4) Is it likely that the applicant will be affected by a reorganisation or redeployment measure in the near future (e.g. because their current tasks are being phased out or substantially modified or do not contain sufficient added value to the Directorate-General or service) and are his skills such that identifying a new assignment is likely to prove difficult?	Art. 5 (4) a) iv)				
HIGH PRIORITY CRITERIA	(5) If the applicant occupies a sensitive post and is obliged to change duties in the next 12 months, is it unlikely that a suitable new post would be identified within this period.	Art. 5 (4) a) (v)				

	(6) do the job requirements still correspond to the applicant's skills and aptitudes	Art. 5 (4) b)				
	If **NO** for criteria (6): (c) Are the official's skills such that identifying a new, adequate assignment is likely to prove difficult?	Art. 5 (4)				
	(7) Can the problem in re-assigning (see criteria (2) to (6) the official to a new task be addressed by training measures?	Art. 5 (5)				
	If **YES** for criteria (7) (a) (b) Would training measures require disproportionate time and resources?	Art. 5 (5)				
	(8) Does the candidate's application put forward a particular personal situation that requires his presence at home or at a place other than the place of assignment?	Art. 5 (6)				
			Yes		No	
—	Has the official/temporary agent made a positive contribution to the work of the department/Commission over a significant period					

	CONCLUSION/GENERAL ASSESSMENT		HIGH priority	LOW priority	no priority	
	Is it, generally and taking into account the priority criteria, considered to be in the interest of the service to terminate the service of the official?					
	Supplementary information					

Pers Admin Verwaltungsmitteilung Administrative Notices Informations administratives

>> de | en | fr N° 56-2006 / 20.11.2006

EXPLANATORY MEMORANDUM

- Article 1- Amendment of Article 3 GIP
- Article 2- Amendment of Article 4 GIP
- Article 3- Amendment of Article 5(2)GIP
- Article 4-Amendment of Article 8 GIP
- Article 5-Amendment of Article 9 GIP
- Article 6 – Entry into force

The Commission adopted the General Implementing Provisions on the early retirement of officials and temporary agents without reduction of pension rights C(2004) 1588 on 28 April 2004 ("GIP"). The GIP were published in Administrative Notices No. 63-2004 of 11 June 2004.

The need to amend the GIP has arisen because experience has shown that the time table for conducting an early retirement exercise set out in the GIP is not sufficient for the smooth and efficient administration of the exercise.

In particular, Article 3(1) of the GIP provides for the launching of the exercise in September, with early retirement taking effect from 1 January of the following year, that is it gives only 3 months for the completion of the entire administrative side of the exercise. It is proposed to amend this article so that the exercise can begin at any time during a year, with early retirement taking place in a year to be specified, in practice either that year or the next year. This amendment leads to amendments to Articles 3(2), 4(1), 4 (4), 5(2) and 9, second paragraph.

In addition it is proposed to make a further minor amendment to the GIP for the sake of good administration. Article 9, first paragraph, provides for each non-selected applicant to be automatically given a reasoned decision on why his application failed. With potentially hundreds of applicants this will not be possible, as experience from the termination of service schemes 2002 to 2004 has shown. The suggested amendment therefore provides that a reasoned decision will be provided to non-selected applicants only if they so request it.

The Staff Regulations Committee gave a positive opinion on these amendments on 2 December 2005.

The Staff Committee was consulted on 4August 2005 and gave a positive opinion on 27 January 2006.

It is proposed to the Commission to adopt this draft amending decision.

Decision amending the General Implementing Provisions on the early retirement of officials and temporary agents without reduction of pension rights C(2004) 1588 of 28 April 2004

General Implementing Provisions for giving effect to Article 9 of Annex VIII of the Staff Regulations and Article 39 of the Conditions of Employment of Other Servants of the European Communities

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Staff Regulations of officials and the Conditions of Employment of other Servants of the European Communities, laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 and in particular Article 9 of Annex VIII of these Staff Regulations and Article 39 of these conditions of employment of other servants of the European Communities;

Having regard to the opinion of the Staff Regulations Committee;

Having consulted the Staff Committee;

Whereas:

(1) The Commission adopted the General Implementing Provisions on the early retirement of officials and temporary agents without reduction of pension rights C(2004) 1588 on 28 April 2004 ("the GIP").

(2) The need to amend the GIP has arisen because experience has shown that the time table for conducting an early retirement exercise set out in the GIP is not appropriate for the smooth and efficient administration of the exercise.

(3) Article 3(1) of the GIP provides for the launch of the exercise in September, with early retirement taking effect from 1 January of the following year, that is it gives only 3 months for the completion of the administrative part of the exercises.

(4) Article 3(1) GIP should be amended so that the exercise can begin at any time during a year, with early retirement taking place in a year to be specified.

(5) The amendment of Article 3(1) leads to corresponding amendments to Articles 3(2), 4(1), 4(4), 5(2) and 9, second paragraph.

(6) For the sake of good administration, Article 9, first paragraph, should be amended so that a reasoned decision on the non-selection of a candidate should only be given to such a candidate if they so request it.

HAS ADOPTED THESE AMENDMENTS:

Article 1- Amendment of Article 3 GIP top

Article 3 GIP will now read:

Article 3: Call for applications

1. The Director General for Personnel and Administration shall invite applications for such early retirement with retirement taking place in the calendar year specified in the call for applications. The invitation shall be published in the Administrative Notices and shall

    a. indicate the potential number of possibilities;

    b. specify the deadline for applications and the form in which they are to be made;

    c. specify the conditions and date of eligibility;

    d. specify the calendar year or years when retirement can take place.

2. Applications shall be lodged in conformity with the Administrative Notice. Applications may only be submitted with a view to retirement in the year specified in the call for applications. Candidates who are unsuccessful are not obliged to retire and may reapply for later exercises.

3. The submission of an application may not be taken into consideration for any other purposes relating to the candidate's career.

Article 2- Amendment of Article 4 GIP top

Article 4 GIP will now read:

Article 4: Eligibility

1. To be eligible, the official or temporary agent must fulfil on the date specified in the call for applications, the criteria set out in paragraphs 2, 3, 4, 5 and 6.

2. An official must be:

    a. in active employment, on leave for military service or on parental or family leave within the meaning of Article 35 of the Staff Regulations, or

    b. seconded in the interest of the service within the meaning of Article 37 (a) of the Staff Regulations

3. A temporary agent must be in active employment or on parental or family leave

4. The candidate must be at least 55 years old on the date specified in the call for applications, and not be able to retire without a reduction in pension rights in the course of the year specified in the call for applications.

5. The candidate must fulfil the requirements of article 77 of the Staff Regulations as an official and/or temporary agent in one of the Institutions and/or Community agencies within the meaning of Articles 1a and 1b of the Staff Regulations on the date specified in the call for applications.

6. For the purpose of determining the period of service referred to in paragraph 5, only the periods of service mentioned in paragraphs 2 and 3 shall be taken into consideration.

Article 3- Amendment of Article 5(2)GIP top

The first paragraph of Article 5(2) GIP will now read:

2. Each Directorate General and Service shall draw up a list of applicants on the basis of the criteria set out in paragraphs 4, 5, 6 and 7.

Article 4-Amendment of Article 8 GIP top

Article 8 GIP will now read:

Article 8: Adoption of the list by the Appointing Authority

The distribution of the possibilities between the institutions is fixed every year by way of consultation between the institutions. Following these consultations, the Directorate General for Personnel and Administration shall submit the final list to the Appointing Authority for approval.

Article 5-Amendment of Article 9 GIP top

Article 9 GIP will now read:

Article 9: Implementation of the decision

Non-selected applicants will be informed in writing of the fact of their non-selection. Such applicants will be provided with the reasons for their non-selection upon request.

The selected applicants shall be informed of their selection in writing and shall have a period of 10 working days from notification during which they may withdraw their request. If an official withdraws his application, the highest placed official on the reserve list shall automatically replace him; a temporary agent is automatically replaced by the highest placed temporary agent on the reserve list. This procedure will be repeated for each withdrawal. Selected applicants having accepted this possibility of early retirement will be able to retire at a date of their choosing within the calendar year specified in the call for applications.

Article 6 – Entry into force top

This decision shall enter into force today.

Done at Brussels, 10.08.2006.

top

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