



Brussels, 7.6.2016
C(2016) 3214 final

COMMISSION DECISION
of 7.6.2016
concerning the function of adviser

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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 and the Conditions of Employment of Other Servants of the Union as laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68¹, and in particular Articles 2, 4, 5, 7 and 29 thereof,

Having regard to the Commission Communication on Organisation Charts of Commission DGs and Services, adopted by the Commission on 13 February 2007²,

Having regard to the Commission Decision of 16 December 2013 on types of post and post titles³,

Whereas:

- (1) It is necessary to adapt the Commission rules on advisers to take account of the revised Staff Regulations, which entered into force on 1 January 2014.
- (2) The Commission should use this opportunity to modernise its adviser policy as part of its global talent management strategy, in particular to make a clearer separation between middle management and expert careers.
- (3) In view of the specialised nature of their work, advisers should not be subject to a mandatory mobility scheme. The legal framework established by the present Decision leaves nevertheless sufficient scope for the mobility of advisers who would like to work in a new environment,

HAS DECIDED AS FOLLOWS:

SECTION 1. GENERAL PRINCIPLES

Article 1: Subject matter and scope⁴

1. The purpose of this Decision is to establish a legal framework setting out the rules of the European Commission concerning:
 - the duties of advisers;
 - the position of advisers in the organisational structure of the Commission;
 - the procedures for the selection and appointment of advisers;
 - the arrangements for reassigning advisers to functions not appearing in the organisation chart in certain circumstances.

¹ OJ L 56, 4.3.1968, p.1.

² SEC(2006) 1702 of 13 February 2007.

³ C(2013) 8979, Administrative Notice No 70-2013.

⁴ Any reference in this Decision to a person of the male sex shall be deemed also to constitute a reference to a person of the female sex, and vice versa, unless the context clearly indicates otherwise.

2. 'Hors Classe' Advisers as well as Principal Advisers and the Legal Advisers of the Legal Service are not covered by this Decision.
3. This Decision shall apply to all Commission departments and departments administratively attached to the Commission.

Article 2: Definition

1. Adviser functions shall be those that meet all of the following criteria:
 - they involve duties that, in view of their horizontal nature (such as coordination, representation, analysis and advice), represent a high added value for a Directorate-General or department;
 - without prejudice to the exceptions provided for in Article 3(2), they do not involve the direct management of human or financial resources or middle-management tasks;
 - they require special qualities of the person concerned and in particular special expert knowledge and/or special experience and the capacity to provide guidance of high added value.
2. Adviser functions shall appear in the Commission's official organisation chart. The creation or abolition of such functions shall require a modification of the organisation chart.
3. Adviser functions must correspond to a need of the service, which may be permanent or temporary.
4. Advisers shall be appointed at grades AD 13/AD 14.
5. As an exceptional measure, an adviser function may be filled by the engagement of a member of the temporary staff in accordance with the relevant Commission rules on temporary staff.

Article 3: Administrative status

1. Advisers shall be administratively attached to a Director, Deputy Director-General, Director-General, Principal Adviser or *Hors Classe* Adviser. In exceptional and duly justified cases, they may be attached to a head of unit.
2. Advisers shall in principle exercise no hierarchical authority over staff. However, a maximum of three staff members providing administrative support may be directly attached to an adviser. Moreover, advisers may head a small team during a specific mission or to implement a specific project.
3. Each adviser function must have a specific title, which shall appear in the organisation chart, and a full job description.

Article 4: The appointing authority

Unless otherwise provided for, the appointing authority powers for the provisions of this Decision shall be exercised by the Director-General in charge of the official, agent or post concerned ("the Director-General concerned").

Article 5: Filling the functions

The function shall in principle be filled by publication (Article 29 of the Staff Regulations). An official may be reassigned to an adviser function in the interests of the service (Article 7(1) of the Staff Regulations) when the conditions set out in Article 7(1) of this Decision are fulfilled.

Article 6: Publication of a function

In the case of publication, the Director-General concerned shall draw up the vacancy notice and send it to the Directorate-General for Human Resources and Security for verification and publication.

SECTION 2. FILLING ADVISER FUNCTIONS

Article 7: Eligibility

1. In the case of reassignment to an adviser function in the interests of the service within a Directorate-General or in another Directorate-General (in accordance with Article 7 of the Staff Regulations), the person must:
 - be an official,
 - be in grade AD 13 or AD 14,
 - already occupy an adviser function or have occupied such a function.
2. Where a vacancy notice is published, candidates must, on the closing date for the receipt of applications:
 - be established officials,
 - be in grade
 - AD 13 or AD 14, or
 - AD 12 and have a seniority of two years in that grade,
 - possess the qualifications specified in the vacancy notice.

Article 8: Selection and appointment

1. Selection:

In the case of publication of a vacancy notice, the stages in selection to be followed by the appointing authority shall be as follows:

 - (a) Definition of the job profile

The vacancy notice shall set out in detail the tasks and duties of the function to be filled, including those in the job description. It shall also specify the minimum qualifications which applicants must possess for their applications to be taken into consideration and any other desirable qualifications.
 - (b) Rapporteurs

The list of rapporteurs for the selection and appointment of advisers shall be that used for the selection and appointment of middle-management staff.
 - (c) Assessment of applications by the pre-selection panel

The Director-General concerned shall set up a pre-selection panel comprising at least three members of a grade and function equal or superior to that of the function to be filled, including one member from another Directorate-General. The Director-General concerned must ensure that there is a balanced representation of men and women in the pre-selection panel.

Using assessment checklists, the pre-selection panel shall consider all applications received having regard to the vacancy notice and the CVs of the applicants. Where appropriate, it shall conduct interviews. It shall draw up a shortlist of the applicants who best correspond to the profile sought, giving reasons for its choices.

- (d) Interviews by the Director-General concerned and the rapporteur for the procedure

The Director-General concerned and the rapporteur for the procedure shall interview the applicants on the shortlist. The Director-General concerned may decide to interview other eligible applicants.

2. Appointment:

The steps for appointment to be followed by the appointing authority shall be as follows:

- (a) Before deciding on the appointment, the Director-General concerned shall consult the Member of the Commission responsible for the department. He shall then inform the Director-General for Human Resources and Security and the Secretary-General of the intended action.
- (b) The Director-General for Human Resources and Security or the Secretary-General may, notably on the basis of a recommendation from the rapporteur for the procedure, ask for the intended appointment to be referred to the Consultative Committee on Appointments. If such a referral is made, the appointing authority powers shall be exercised by the Member of the Commission responsible for human resources and the Member of the Commission responsible for the department, in agreement with the President.
- (c) At the earliest three working days after the information of the Director-General for Human Resources and Security and the Secretary-General, the appointing authority shall appoint the successful applicant. The procedure is then closed. The selected candidate shall be appointed in his current grade, except for candidates in grade AD 12 who shall be appointed in grade AD 13.

SECTION 3: REASSIGNMENT OF ADVISERS

Article 9: Reassignment of advisers to a senior expert function

1. Reassignment in case of unsatisfactory performance

Without prejudice to Article 51 of the Staff Regulations, a procedure for reassignment to a senior expert function may be launched by the Director-General concerned if the performance of an adviser has been evaluated as unsatisfactory in the last annual report provided for in Article 43 of the Staff Regulations. It must be launched by the Director-General concerned if the performance has been evaluated as unsatisfactory in two of the last three annual reports. Furthermore, the procedure

may be launched by the Director-General concerned in agreement with the Director-General for Human Resources and Security in exceptional and duly justified cases.

Procedure to be followed:

- Before a decision is taken, the case shall be further assessed by one of the 30 rapporteurs designated by the Director-General for Human Resources and Security.
- The rapporteur shall draw up conclusions, following which the case shall be referred to the Consultative Committee on Appointments.
- The Consultative Committee on Appointments shall issue an opinion in which it may:
 - suggest that the official be offered another adviser function;
 - confirm that the official be reassigned to a senior expert function.

Final decision: following the opinion of the Consultative Committee on Appointments, the Director-General concerned shall take the final decision by simplified procedure⁵, after hearing the official concerned and consulting the Commissioner responsible for the department.

2. Reassignment in case of revision of the organisation chart

Where the function occupied by an adviser ceases to exist as a consequence of a revision of the organisation chart of the Directorate-General, the Director-General concerned may, after having examined the possibilities of transfer to a vacant adviser function in the Directorate-General and after hearing the adviser, reassign him in agreement with the Director-General for Human Resources and Security to a senior expert function.

3. Reassignment in other cases

In other cases, the Director-General may, with the agreement of the adviser, reassign him to a senior expert function.

SECTION 4 – SPECIFIC CASES AND FINAL PROVISIONS

Article 10: Seconded advisers

1. A function of 'seconded adviser' may be created to permit the secondment of an adviser in the interests of the service (under Article 37(a) and Article 38 of the Staff Regulations).
2. The function of 'seconded adviser' shall be created in the Directorate-General of origin of the person concerned, in accordance with the applicable rules on modifications to the organisation chart. The function shall automatically cease to exist when, either at the end of the secondment or at the latest 12 months afterwards, the official is reassigned or appointed to a different function.
3. At the end of the secondment, the seconded adviser shall return to the Directorate-General of origin and occupy the function of seconded adviser pending reassignment in the interest of the service or appointment (following the publication of a function) to an adviser function within 12 months.

⁵ I.e. in agreement with the President and the Member of the Commission responsible for human resources.

If, at the end of that period, the official has not been reassigned or appointed to an adviser function, the Director-General concerned shall, after hearing the official, reassign him to a senior expert function.

Article 11: Final provisions

1. Commission Decision C(2004) 3623⁶ is repealed.
2. This Decision shall take effect on the day following that of its adoption.

Done at Brussels, 7.6.2016

For the Commission
Kristalina GEORGIEVA
Vice-President

⁶ Commission Decision C(2004) 3623 of 29 September 2004 concerning the function of adviser, as last amended by Decision C(2008) 5029 of 10 September 2008.