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EUROPEAN COMMISSION

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COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

on the request to submit a proposal regarding the early retirement scheme for EU civil servants

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On 25 October 2010 the Council adopted conclusions calling on the Commission to put forward, by the middle of 2011, a legislative proposal for amending the Staff Regulations. That proposal should be either to repeal Article 9(2) of Annex VIII to the Staff Regulations or to review it substantially in order to take into account the concerns expressed in the Council conclusions. Under Article 241 TFEU, if the Commission decides not to submit a proposal it has to inform the Council of the reasons.

The Commission wishes to remind the Council that in 2004 it adopted Article 9(2) of Annex VIII to the Staff Regulations as a human resources management tool. This tool has enabled the EU institutions to dispense with the previous termination-of-service system (*'dégagement'*) and has made it easier to recruit staff from the new Member States (EU 10 and EU 2). It was part of an overall package negotiated between the Council, the Commission and trade unions.

The Commission wishes to stress that the report presented to the Council gives figures for a short-term perspective, as required by the Staff Regulations. At the same time, the Commission does not see grounds on which the Council might presume that the scheme would not be budgetary neutral on the long term. Since 2004, all institutions, as defined in Articles 1a (2) and 1b of the Staff Regulations, have jointly applied the early retirement scheme. They have done so only in the interest of the service and only to a restricted number of cases. The scheme has (with one regrettable, but very limited exception) complied with the limits laid down in Article 9(2) of Annex VIII to the Staff Regulations.

The Commission would also like to remind the Council that, due to the specific post-enlargement circumstances, a 10% annual rate has been applied in recent years. There are no reasons to expect this maximum rate to be reached every year.

Article 9(2) is addressed to all institutions, and all institutions must manage the scheme jointly. The Commission cannot unilaterally restrict the way other institutions exercise their Appointing Authority powers with regard to early retirement. However, following a Commission proposal, the institutions have accepted to use their margin of discretion as appointing authorities and to apply for 2010-2011 a rate of around 8%. This takes account of the end of the transition period for the recruitment of EU-10 nationals, as well as the persisting need to recruit staff from EU-2 Member States.

For the reasons given above, the Commission does not consider that there are at this stage grounds for revising Article 9(2) of Annex VIII to the Staff Regulations. It will, however, give due consideration to the Council's concerns when making a proposal for amending the Staff Regulations.