



European Economic and Social Committee

SOC/214

**Establishing EU agencies -
terms of office of
presidents and directors**

Brussels, 15 December 2005

OPINION

of the European Economic and Social Committee
on the

- Proposal for a Regulation of the Council amending Regulation (EC) No 40/94 as regards the term of office of the President of the Office for Harmonisation in the Internal Market**
- Proposal for a Regulation of the Council amending Regulation (EC) No 2100/94 as regards the term of office of the President of the Community Plant Variety Office**
- Proposal for a Regulation of the Council amending Regulation (EC) No 2007/2004 as regards the term of office of the Executive Director and the Deputy Executive Director of the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 2062/94 establishing a European Agency for Health and Safety at Work as regards the Director's term of office**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1406/2002 establishing a European Maritime Safety Agency as regards the Executive Director's term of office**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1592/2002 as regards the term of office of the Executive Director and the Directors of the European Aviation Safety Agency**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 881/2004 establishing a European Railway Agency as regards the term of office of the Executive Director**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 1035/97 establishing a European Monitoring Centre on Racism and Xenophobia as regards the Director's term of office**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 1210/90 on the establishment of the European Environment Agency and the European Environment Information and Observation Network as regards the term of office of the Executive Director**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 337/75 establishing a European Centre for the Development of Vocational Training as regards the Director's term of office**
- Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 1365/75 on the creation of a European Foundation for the improvement of living and working conditions as regards the term of office of the director and deputy director**

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 1360/90 establishing a European Training Foundation as regards the Director's term of office

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EEC) No 302/93 on the establishment of a European Monitoring Centre for Drugs and Drug Addiction as regards the Director's term of office

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 178/2002 as regards the term of office of the Executive Director of the European Food Safety Authority

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control as regards the Director's term of office

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 726/2004 as regards the term of office of the Executive Director of the European Medicines Agency

COM((2005) 190 final – 2005/0077(CNS) – 2005/0078(CNS) – 2005/0089(CNS) – 2005/0085(COD) – 2005/0086(COD) – 2005/0087(COD) – 2005/0088(COD) – 2005/0080(CNS) – 2005/0072(COD) – 2005/0073(COD) – 2005/0074(COD) – 2005/0075(COD) – 2005/0076(COD) – 2005/0081(COD) – 2005/0082(COD) – 2005/0083(COD))

On 17 June 2005, the Council decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the

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On 12 July 2005, the Committee Bureau instructed the Section for Employment, Social Affairs and Citizenship to prepare the Committee's work on the subject.

The European Economic and Social Committee **appointed Ms Cser** as rapporteur-general at its 422nd plenary session, held on 14 and 15 December 2005 (meeting of 15 December 2005) and adopted the following opinion by 93 votes with 2 abstentions.

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1. **Summary of the proposal for a regulation**

- 1.1 The European Commission has submitted proposals for regulations harmonising procedures for appointing directors and deputy directors of agencies, amending *inter alia* Council Regulation (EC) 2007/2004.

The proposals contain changes to some of the provisions of the regulations establishing 18 agencies, with regard to the appointment of their directors and deputy directors.

There are no amendments to Council Regulation 2667/2000/EC establishing a European Agency for Reconstruction or Regulation 460/2004/EC of the European Parliament and of the Council establishing a European Network and Information Security Agency on the grounds that these agencies have only been established for a limited period and that the relevant

regulations do not provide for extending the terms of office of their directors or deputy directors.

The proposed regulations establishing a European Chemicals Agency and a Community Fisheries Control Agency have not yet been adopted; amendments harmonising their provisions are planned.

- 1.2 The proposals amend existing regulations establishing 18 agencies; identical amendments to the preamble of each regulation are proposed.

The unified proposal for amendment stipulates that agencies should be headed by a director appointed on the basis of a proposal from the Commission for a five-year period which, on a proposal from the Commission and after evaluation, may be extended once for a period of not more than five years.

In the evaluation the Commission assesses the results achieved in the first term of office and the way in which they were achieved, together with the agency's duties and requirements in the coming years.

2. **General comments**

- 2.1 The EESC welcomes the drafting by the European Commission of a proposal to align currently inconsistent provisions in Council regulations for the appointment of executive directors and deputy directors to the 18 agencies, and for extension of their term of office.
- 2.2 The EESC appreciates and supports the Commission's aim of harmonising procedures in that European Community rules will become clearer and more manageable as a result. The activities of the European agencies will also become clearer, and their management by the Commission will be made simpler and more uniform.

Clarity and simplicity could also benefit the executive directors of agencies and their deputies, in that the tasks and competences of the agencies in various fields will become clearer. There is inconsistency in the concepts and terms used by the various regulations establishing individual agencies referring to the appointment of executive directors, directors and deputy directors, and also to the renewal, extension or continuation of their terms of office; there is also inconsistency with regard to varying durations of terms of office, all of which gives rise to confusion in applying the rules on legal status in connection with appointments and terms of office.

3. **Specific comments**

- 3.1 The EESC endorses the aim of the proposals, but points out that Council Regulation (EEC) No 1360/90 of 7 May 1990 establishing a European Training Foundation also needs to be

amended. Article 7(1) of the Regulation states that "the director of the Foundation shall be appointed by the governing board, on a proposal from the Commission, for a term of office of five years, which shall be renewable".

The Commission's proposals for regulations amending existing regulations, however, consistently use the term "extend" instead of "renew".

- 3.2 The EESC regrets that the Commission, in its explanatory referendum, incorrectly refers to Articles 223 and 225 of the EC Treaty on the appointment of judges, whereas the relevant Articles are actually 223 and 224.
- 3.3 The EESC is unable to understand why Council Regulation (EC) No 2667/2000, which set the term of office of the executive director of the European Agency for Reconstruction at 30 months, and Council Regulation 2068/2004, which extended the Agency's mandate by 30 months to 31 December 2006, are inconsistent with the stated objectives of harmonisation.
- 3.4 In view of the Commission's concern with harmonisation, the EESC is unable to understand why there is inconsistency in the terms used to refer to management posts.

The EESC draws the Commission's attention to the fact that it is unrealistic and unacceptable to establish such an important and costly agency as the European Network and Information Security Agency for a period of only five years. It is likely that the mandate of this agency will be extended on a similar basis to that of the other agencies originally established for a fixed period, and therefore work is already needed to prepare the requisite amendment.

The objectives and remit of the European Network and Information Security Agency set out in Regulation (EC) No 460/2004 of the European Parliament and of the Council of 10 March 2004 are in themselves good reason for the EESC's recommendation.

- 3.5 The EESC endorses the Commission's objectives of harmonisation, clarity and simplification. However, it is unable to understand why the Commission does not take into consideration Article 27(77) in Chapter 1 (Recruitment) of Title III (Career of Officials) of the Staff Regulations of officials of the European Communities:

"Recruitment shall be directed to securing for the institution the services of officials of the highest standard of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of Member States of the Communities".

The Commission's proposed amendment is in serious breach of this requirement in that it dispenses with the competition procedure envisaged by the EC Treaty due to budgetary considerations. In the explanatory memorandum, the Commission makes a conscious decision not to follow the competition procedure on the grounds of expedience.

The EESC cannot accept any sidestepping of the requirements laid down in the EC Treaty and the Staff Regulations, since it would very probably exclude citizens of the ten new Member States from being appointed as directors, deputy directors or executive directors of agencies.

The EESC does not think that the competent authorities should be allowed to choose between extension of a term of office or initiating a new recruitment procedure.

In the Committee's view, it is important to boost public confidence in EU institutions. However, efforts to do so will be seriously jeopardised if citizens of the ten new Member States feel that management positions in EU bodies are effectively barred to them.

Only one of the 20 European agencies has a director from one of the ten new Member States.

The EESC recommends that the Commission, taking into consideration the above observations and European Community rules on equal opportunities, carefully review its proposals amending the existing regulations.

Brussels, 15 December 2005.

The President
of the
European Economic and Social Committee

The Secretary-General
of the
European Economic and Social Committee

Anne-Marie Sigmund

Patrick Venturini
