Office for Harmonisation in the Internal Market: term of office of the President

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This report constitutes a Commission Staff Working Document detailing guidelines for the appointment of heads of Community agencies. The procedures for the appointment of heads of agencies that have been introduced by the agencies' basic acts vary considerably. In most cases, these basic regulations contain little information on the different steps of the procedure. Nevertheless, the case law on selection procedures under the Staff Regulations that has been established over the years by the Court of First Instance and the Court of Justice should be respected when carrying out these procedures, subject to any special rules in the basic act setting up the agency.

These circumstances have led to the decision to establish general guidelines on procedures for selecting the heads of Community agencies and on the Commission's role within these procedures. These guidelines apply each time the Commission has a role to play in the appointment procedure for heads of agencies.

Given the limited role of the Commission with regard to second and third pillar agencies, these guidelines are limited to the procedures that concern the Community agencies. However, in order to increase coherence between the EC agencies and the third pillar agencies, the Commission's services should systematically propose that the relevant bodies adopt procedures analogous to those set out in these guidelines for appointments as head of third pillar agencies.

The principal points in this document are as follows:

-**Nature of the contract:** given that the agencies' basic acts lay down a time-limited mandate for their heads, normally between 4 and 5 years, where the post is published both internally within the Commission and externally. Such publication also ensures transparency and objectivity.

-**Level of the post**: in view of the limited size of most of the current agencies, the level of grade A*/AD14 is generally appropriate.

-**Selection procedure** for appointments of heads of agency by the administrative board or the Council on the basis of a Commission proposal: in the interest of coherence, it is appropriate to take the rules that have been laid down by the Commission for the appointment of its own senior management staff as the basis of the procedure. Consequently, there are a number of distinct steps: identifying the "profile", including the selection criteria to be taken into account for the evaluation of applications; the approval of this profile; publication of the post both inside the Commission and externally; creation of a Pre-selection Committee; initial screening of the applications by the parent DG followed by a detailed examination by the Pre-selection Committee; interviews with the best qualified candidates; approval of the draft list by the Consultative Committee on Appointments (CCA) by way of written procedure; interview with the candidates followed by adoption of the list of proposed candidates by the Commission. The parent DG should start the procedure in question at least 12 months before the mandate of the current office-holder expires.

The selection procedure also includes guidelines on the content of the vacancy notice; the list of the minimum requirements for the profiles for posts of heads of agencies; the matters which must be contained in the Official Journal publication and rules on the dissemination of the information; the setting up of the Pre-selection Committee; the screening of applications and assessment by the Pre-Selection

Committee. The guidelines also define the steps to be followed before adoption of the list of proposed candidates by the Commission as well as the appointment of the best candidate to the post by the Administrative Board, or the Council in the case of the CPVO.

On **financial matters,** it is noted that the expenditure linked to the selection procedure must be borne by the agency's budget. For press publications, costs currently are about EUR 100 000 – 150 000 for publication in one paper in each Member State (two in those where there are two official languages). Limited publication in the international or specialised Press is often a cheaper alternative. Additional costs may arise where the agency (or the parent DG) decides to engage a head-hunter or a contractor.

-**Selection procedure for appointments of heads of agencies made by the Commission:**the framework regulation for the new executive agencies (Regulation 58/2003) determines that the head to be appointed must be an official of the European Communities. Therefore, in these cases the post is published only internally to the Commission and interinstitutionally. The selection is carried out by way of the normal CCA, where the draft list is established by the Pre-selection Committee and submitted, to the CCA for approval by way of written procedure. The selected official should then be seconded in the interest of the service to the executive agency. The guidelines go on to discuss other appointments by the Commission of heads of agencies on the basis of a proposal from another body, normally the Administrative Board;

- **Probationary period:** Directors and Deputy Directors are appointed by the Commission subject to a probationary period that begins on the first day of their entry into service and generally ends after six months;

- **Re-appointment of office holders:** With the exceptions of the European Training Foundation (ETF), recently created agencies and agencies that are being set up, the basic regulations allow Directors, who are normally appointed for a period of four to five years, to be re-appointed one or several times. However, a proposal amending the regulations of the agencies concerned was recently put so that the texts might conform with current practice, replacing the notion of renewal by that of prolongation (in order to avoid beginning the selection procedure again.) In this event, the Director's mandate may be prolonged once only, for a period no longer than the duration of the mandate.