Basic information

2005/0077(NLE) NLE - Non-legislative enactments Regulation	Procedure lapsed or withdrawn
Office for Harmonisation in the Internal Market: term of office of the President **Subject** 8.40.08 Agencies and bodies of the EU	

Key players

European Parliament	**Committee responsible**	**Rapporteur**	**Appointed**
	JURI Legal Affairs	GARGANI Giuseppe (PPE-DE)	15/06/2005
Council of the European Union			
European Commission	**Commission DG**	**Commissioner**	
	Human Resources and Security	ŠEFČOVIČ Maroš	

Key events

Date	Event	Reference	Summary
13/05/2005	Legislative proposal published	COM(2005)0190	Summary
22/06/2005	Committee referral announced in Parliament		
22/11/2005	Vote in committee		Summary
28/11/2005	Committee report tabled for plenary, 1st reading/single reading	A6-0346/2005	
13/12/2005	Decision by Parliament	T6-0483/2005	Summary
13/12/2005	Results of vote in Parliament		
02/12/2009	Additional information		Summary
21/05/2014	Proposal withdrawn by Commission		Summary

Technical information

Procedure reference	2005/0077(NLE)
Procedure type	NLE - Non-legislative enactments

Procedure subtype	Consent by Parliament
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 352-p1sub2
Stage reached in procedure	Procedure lapsed or withdrawn
Committee dossier	JURI/6/28473

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Amendments tabled in committee		PE364.859	07/11/2005	
Committee report tabled for plenary, 1st reading/single reading		A6-0346/2005	28/11/2005	
Text adopted by Parliament, 1st reading/single reading		T6-0483/2005	13/12/2005	Summary

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0190	13/05/2005	Summary
Document attached to the procedure	SEC(2005)0625	13/05/2005	Summary
Commission response to text adopted in plenary	SP(2006)0053	12/01/2006	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES1506/2005 OJ C 065 17.03.2006, p. 0131-0134	15/12/2005	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

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

2005/0077(NLE) - 13/05/2005

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.

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

2005/0077(NLE) - 13/12/2005 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Giuseppe **GARGANI** (EPP-ED, IT), and made two substantive amendments to the Commission's proposal:

-a new paragraph states that the President of the Office shall be appointed by the Council from a list of at most three candidates, which shall be prepared by the Administrative Board after hearing the opinion of the representative appointed by the European Parliament. Power to dismiss the President shall lie with the Council, acting on a proposal from the Administrative Board;

-the opinion of the representative appointed by the European Parliament must be heard before renewing the President's term of office.

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

2005/0077(NLE) - 13/05/2005 - Legislative proposal

PURPOSE : to amend Regulation 40/94/EC as regards the term of office of the President of the Office for Harmonisation in the Internal Market.

PROPOSED ACT : Council Regulation.

CONTENT : in the European Union there are now 20 decentralised bodies which can be categorised as Community agencies on account of their common features: establishment on a legal basis, legal personality, administrative and financial autonomy, clearlydefined sphere of responsibility and action, etc.

The head of each Community agency usually has the title director and in some cases is assisted by one or more deputies. The director's term of office is generally 45 years. Most of the basic Regulations nevertheless provide for the director's term of office and, where applicable, that of the deputies, to be extended for one or more further periods. The conditions governing appointment and term of office are laid down in each basic Regulation for each agency.

Until recently, the body responsible for appointment simply adopted a decision extending an incumbent director's term of office. Having examined the basic Regulations in more detail, however, the Commission has concluded that this practice poses a legal problem.

According to the Commission, the fact that the term of office is renewable must be interpreted as meaning that, when the term of office ends, the incumbent has to apply for a new term. Applied to the agencies, this interpretation leads to the conclusion that the possibility of renewing the director's term of office does not exempt the incumbent from following the appointment procedure laid down in the basic Regulation. Moreover, agency directors and their deputies are not only officeholders but also agency staff members employed under temporary contracts and subject to the Conditions of employment of other servants of the European Communities. The appointment procedure must therefore include publication of the post in all Member States and a selection process in compliance with the rules deriving from the basic Regulations and the Conditions of employment of other servants.

As these procedures are generally lengthy and relatively expensive and given the agencies' special needs and the practice in past years, the Commission proposes to avoid a full selection procedure each time that the first term of office for a director's or other relevant person's post comes to an end by either extending the current term of office or launching a new selection procedure in order to ensure continuity in the agency's administrative management. A decision to extend an incumbent director's term of office must be based on a prior assessment of their performance and of the agency's needs, conducted by the authority proposing candidates to the appointing authority, and extension may be authorised only once and for a limited period not exceeding that stipulated for the initial term of office.

In total, amendment of the articles relating to appointment is proposed in respect of 18 agencies – resulting in the presentation of 18 proposals for Regulations amending the basic Regulation for each agency.

The main aim of this proposal is to harmonise the rules on the conditions and procedures applicable to extending the term of office of the Director, Deputy Director or President, as appropriate, of certain Community agencies.

Provision should be made to extend this term of office once, after adequate evaluation.

It is proposed that the term of office of the President shall not exceed five years. On a proposal from the board of management and after a Commission evaluation and opinion, it may be extended once for a period of not more than five years.

In the evaluation the board of management shall assess in particular:

- the results achieved in the first term of office and the way in which they were achieved;

- the Office's duties and requirements in the coming years.

Lastly, regarding the two agencies in respect of which a proposal for a Regulation has already been presented and is being examined or is in the process of being adopted (the European Chemicals Agency and the Community Fisheries Control Agency), the Commission will as necessary present proposals for amendments with a view to harmonising the texts for all the Community agencies.

Similarly, no proposals have been presented for amendment of the acts setting up agencies and other bodies under the second and third pillars.