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Committee on the Environment, Public Health and Food Safety

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25.8.2005

DRAFT OPINION

of the Committee on the Environment, Public Health and Food Safety

for the Committee on Legal Affairs

on the proposals for regulations of the European Parliament and of the Council:

1. 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
(COM(2005)0190 – C6-0141/2005 – 2005/0072(COD))
2. amending Regulation (EC) No 178/2002 as regards the term of office of the Executive Director of the European Food Safety Authority
(COM(2005)0190 – C6-0146/2005 – 2005/0081(COD))
3. amending Regulation (EC) No 851/2004 establishing a European Centre for disease prevention and control as regards the Director's term of office
(COM(2005)0190 – C6-0147/2005 – 2005/0082(COD))
4. amending Regulation (EC) No 726/2004 as regards the term of office of the Executive Director of the European Medicines Agency
(COM(2005)0190 – C6-0148/2005 – 2005/0083(COD))

Draftswoman: Jutta D. Haug

SHORT JUSTIFICATION

The Commission has adopted a proposal which aims to harmonise the provisions concerning the terms of reappointment of the Community agency directors. It claims that the existing provisions, allowing the renewal of the term of office by a simple decision by the appointing authority, are legally problematic.

In order to introduce a legally sound but administratively simple system for reappointing agency directors when their first term comes to an end, the Commission proposes a procedure where the appointing bodies would have the option of either extending the term of office or launching a completely new selection procedure. The decision on how to proceed could be taken, however, only after the Commission had assessed "the results achieved in the first term of office and the agency's duties and requirements in the coming years". A harmonised model for the first term of office (five years) and for the extension of the term (possible only once for maximum five years) would apply to all Community agencies under the first pillar.

Remarks

The objective of the proposal - filling in legal loopholes and streamlining administrative practices - can naturally be supported. Another question is whether the provisions on the term of office of the directors of 18 agencies should be harmonised, given the variety of agencies concerned, and the differences in their roles and tasks. When looking at the matter from a personnel policy point of view, it looks logical that the basic terms and conditions of employment are the same for those holding similar positions. But from an institutional point of view, the matter is more complicated.

Depending on the agency, the decision on the procedure after an evaluation whether to extend the term of office or launch a new selection procedure would be either taken by the Commission, the Council or the Management Board of the agency. In the case of the European Environment Agency (EEA), the European Food Safety Authority (EFSA), the European Centre for Disease Prevention and Control (ECDC) and the European Medicines Agency (EMA), the Commission proposes that it should have the right to carry out the evaluation and on the basis of its results, make a proposal on further steps to the appointing authority, i.e. the Management Board of the agency.

While acknowledging the usefulness of an evaluation of director's performance after the first five-year period in office, your draftsman has doubts whether the wording of the current proposal gives the Commission a too decisive role in the reappointment procedure, given that the agencies concerned are supposed to carry out their tasks independently from the Commission. The new provisions would put the fate of the Director to the hands of the Commission.

In order to avoid a conflict of interest and endangering the independence of the specialised agencies, it would be appropriate to give the Management Board the task to carry out an evaluation (or the right to decide how to do it) and then, if appropriate, take a decision on the extension of the term of office of the director.

AMENDMENTS

The Committee on the Environment, Public Health and Food Safety calls on the Committee on Legal Affairs, as the committee responsible, to incorporate the following amendments in its report:

AMENDMENT TO PROPOSAL 1

Text proposed by the Commission¹

Amendments by Parliament

Amendment 1

ARTICLE 1

Article 9, paragraph 1, first sentence (Regulation (EEC) No 1210/90)

“1. The Agency shall be headed by an Executive Director appointed by the management board on a proposal from the Commission for a period of five years which, ***on a proposal from the Commission and after*** an evaluation, may be extended once for a period of not more than five years.

In the evaluation, ***the Commission*** shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Agency’s duties and requirements in the coming years.”

“1. The Agency shall be headed by an Executive Director appointed by the management board on a proposal from the Commission for a period of five years which, after an evaluation, may be extended once for a period of not more than five years.

In the evaluation, ***the management board*** shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Agency’s duties and requirements in the coming years.

The evaluation shall be submitted without delay to the Commission and to the European Parliament.”

Justification

The Management Board as the appointing authority should carry out an evaluation of the Executive Director's performance and after that, if appropriate, take a decision on the extension of the term of office. As the evaluation concerns a holder of public office and a Community agency, it is important that it is made available to the Commission and the European Parliament.

AMENDMENT TO PROPOSAL 2

¹ OJ C ... /Not yet published in OJ.

Amendment 2

ARTICLE 1, POINT 2

Article 26, paragraph 1, new subparagraph (Regulation (EC) No 178/2002)

“On a proposal from the Commission and after an evaluation, the term of office of the Executive Director **may be extended** once for a period of not more than five years.

In the evaluation, **the Commission** shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Authority’s duties and requirements in the coming years.”

“After an evaluation, **the management board may extend** the term of office of the Executive Director once for a period of not more than five years.

In the evaluation, **the management board** shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Authority’s duties and requirements in the coming years.

The evaluation shall be submitted without delay to the Commission and to the European Parliament.”

Justification

The Management Board as the appointing authority should carry out an evaluation of the Executive Director's performance and after that, if appropriate, take a decision on the extension of the term of office. As the evaluation concerns a holder of public office and a Community agency, it is important that it is made available to the Commission and the European Parliament.

AMENDMENT TO PROPOSAL 3

Amendment 3

ARTICLE 1

Article 17, paragraph 1 (Regulation (EC) No 851/2004)

“1. The director shall be appointed by the Management Board on the basis of a list of

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candidates proposed by the Commission after an open competition, following publication in the Official Journal of the European Union and elsewhere of a call for expressions of interest, 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*** shall assess in particular:

- the results achieved in the first term of office and the way in which they have been achieved;
- the Centre's duties and requirements in the coming years."

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

- the results achieved in the first term of office and the way in which they have been achieved;
- the Centre's duties and requirements in the coming years.

The evaluation shall be submitted without delay to the Commission and to the European Parliament."

Justification

The Management Board as the appointing authority should carry out an evaluation of the Director's performance and after that, if appropriate, take a decision on the extension of the term of office. As the evaluation concerns a holder of public office and a Community agency, it is important that it is made available to the Commission and the European Parliament.

AMENDMENT TO PROPOSAL 4

Text proposed by the Commission¹

Amendments by Parliament

Amendment 4

ARTICLE 1, POINT 2

Article 64, paragraph 1, new subparagraph (Regulation (EC) No 726/2004)

“On a proposal from the Commission and after evaluation, the term of office of the Executive Director may be extended once for a period of not more than five years.

In the evaluation ***the Commission*** shall assess in particular:

“After evaluation, the term of office of the Executive Director may be extended once for a period of not more than five years.

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

¹ OJ C ... /Not yet published in OJ.

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

- the Agency's duties and requirements in the coming years."

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

The evaluation shall be submitted without delay to the Commission and to the European Parliament."

Justification

The Management Board as the appointing authority should carry out an evaluation of the Executive Director's performance and after that, if appropriate, take a decision on the extension of the term of office. As the evaluation concerns a holder of public office and a Community agency, it is important that it is made available to the Commission and the European Parliament.