

Thursday 1 December 2005

TEXT PROPOSED  
BY THE COMMISSIONAMENDMENTS  
BY PARLIAMENT

## Amendment 1

## Article 7, paragraph 1

1. The Member State where the value added tax was incurred shall make its decision concerning the application for refund known to the applicant within three months of the date on which the application was submitted.

1. The Member State where the value added tax was incurred shall make its decision concerning the application for refund known to the applicant within three months of the date on which the application was submitted. **The Member State of establishment shall notify the Member State of refund when the taxable person submits his application for a VAT refund to the competent tax authority.**

## Amendment 2

## Article 7, paragraph 1, subparagraph 1a (new)

**The three-month period shall start from the date on which the tax authority in a Member State of refund receives the electronic refund data from the tax authority in the Member State of establishment concerning the taxable person in question, who shall be automatically informed thereof.**

## Amendment 3

## Article 7, paragraph 3, subparagraph 2a (new)

**The refund transfer deadline shall be one week after expiry of the three-month decision-making period.**

## Amendment 4

## Article 7, paragraph 4, subparagraph 1

4. **In specific cases, a Member State where value added tax has been incurred may request additional information within three months of the date on which application is submitted. After that period has elapsed, no additional information may be requested.**

4. **Where the tax authority of a Member State of refund requests that a further investigation be conducted, the period for determining whether a taxable person is entitled to a refund may be extended. However, the period between the date on which the refund application is submitted and the date of the refund transfer may not exceed four months.**

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## European regulatory agencies

## European Parliament resolution on the draft interinstitutional agreement presented by the Commission on the operating framework for the European regulatory agencies

The European Parliament,

— having regard to the Commission's draft text (COM(2005)0059),

— having regard to its resolution of 13 January 2004 on the Communication from the Commission: 'The operating framework for the European regulatory agencies' <sup>(1)</sup>,

<sup>(1)</sup> OJ C 92 E, 16.4.2004, p. 119.

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- having regard to the declaration on Article 10 of the Treaty establishing the European Community, adopted by the Intergovernmental Conference at Nice, relating to the duty of sincere cooperation on the part of the Community institutions,
  - having regard to the opinion of the Committee on the Environment, Public Health and Food Safety of 11 October 2005 on the 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,
  - having regard to the question for oral answer to the Council tabled jointly by the Committee on Constitutional Affairs and the Committee on Budgets and the answer given by the Council at the sitting of 15 November 2005,
  - having regard to Rule 108(5) of its Rules of Procedure,
- A. whereas the considerations set out in its resolution of 13 January 2004 essentially remain relevant; whereas, in particular, it is essential to rationalise and simplify the structure of the present and future agencies in the interests of clarity, transparency and legal certainty, and in view of a Union with 25 and more Member States, and the assessments to be made when setting up new agencies must be based on the most stringent criteria, *inter alia*, as regards the extent to which the agencies' activities would be proper and worthwhile,
- B. whereas, in presenting its draft text, the Commission has complied with Parliament's call for the conclusion of an interinstitutional agreement spelling out common guidelines prior to the adoption of a framework regulation,
- C. whereas the above-mentioned declaration on Article 10 of the Treaty adopted by the Intergovernmental Conference at Nice states that, when it proves necessary, in the context of their duty of sincere cooperation, to facilitate the application of the provisions of the Treaty, the Parliament, the Council and the Commission may conclude interinstitutional agreements,
1. Welcomes the presentation of the draft text by the Commission;
  2. Regrets the fact that the Council is not prepared to begin negotiations with a view to concluding an agreement on the basis of the Commission's draft text;
  3. Calls on the Commission to continue its efforts to prevail upon the Council to change its mind;
  4. Points out that, when examining future proposals for setting up agencies, it will take the following principles, in particular, as a basis:
    - (a) the setting up of an agency should come under the normal legislative procedure, i.e., as a rule, the codecision procedure, and recourse to the procedure under Article 308 of the Treaty should be confined to exceptional cases where the Treaty provisions relating to the subject in issue do not constitute an adequate legal basis;
    - (b) any proposal for setting up an agency should be accompanied by a cost-benefit assessment and by a thorough impact assessment showing that the agency option is more cost-effective than having the relevant tasks performed by the Commission departments themselves;
    - (c) the autonomy which is to be conferred on the agency in respect of matters falling within its remit does not relieve the Commission of its political responsibility for the agency's activities;
    - (d) the way in which the role of the Commission in selecting and appointing the executive body, generally the director, is fulfilled must reflect this requirement for political responsibility and accountability;

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- (e) Parliament should exercise 'ex-ante scrutiny' in the form of hearings of the candidate(s) for the office of director, 'ex-post scrutiny' in the form of the discharge for the implementation of the budget and ongoing scrutiny through monitoring of the agency's activities by its specialised committees; a decision to extend the term of office of a director should be taken solely by the board of directors, on the basis of an evaluation of the director's first term of office;
  - (f) the Council should nominate to the supervisory body, the board of directors, representatives with acknowledged expertise, whom the Parliament may invite to a hearing prior to their appointment, if it deems it appropriate; the number of such representatives should be in reasonable proportion to the tasks and importance of the agency, with the aim in the longer term of reducing the size of the board of directors for reasons of efficiency; as long as the number of representatives on the board of directors corresponds to the number of Member States, Parliament, for its part, should designate two members of the board of directors;
  - (g) an administrative appeal against an agency's acts which have legal effect vis-à-vis third parties may be lodged with the Commission, which may remedy them; the Commission's decision may be challenged before the courts;
5. Is concerned about the continual growth in the number of decentralised agencies (at present 23, as against 5 in 1995), as there is a consequent risk of the Commission's executive role being dismantled and fragmented into a plethora of bodies that work largely in an intergovernmental manner, and therefore wishes, at least during the period of reflection in the ratification process for the Treaty establishing a Constitution for Europe, to see no further such agencies set up;
6. Welcomes, in the light of the growing cost of decentralised agencies to the Community budget, the fact that, pursuant to the draft text, the Commission will be required to back up any proposal for setting up an agency with an impact assessment, which will not only apply the subsidiarity and proportionality principles but will also include as full as possible an ex-ante evaluation of the likely costs of monitoring and coordination and the impact on human resources and administrative expenditure;
7. Notes that, whilst agencies receive a subsidy under the Community budget, policy decisions relating to the implementation of Community law are taken by representatives of the Member States on their board of directors;
8. Regrets the fact that the Commission is apparently not prepared to provide a clear statement of the financial impact of the existence and development of the current agencies for the period covered by the next financial perspective;
9. Calls for the principle of a maximum rate of increase in agencies' administrative expenditure to be laid down in the interinstitutional agreement, comparable to that required to be applied in the case of the Commission;
10. Calls, unlike the draft text, for the interinstitutional agreement gradually to be applied to existing agencies;
11. Calls on the Conference of Committee Chairmen to review cooperation between the standing committees with responsibility for agencies, the Committee on Budgets and the Committee on Budgetary Control in monitoring agencies' activities, and to update the 'guidelines' adopted in July 1998;
12. Calls on its Committee on Constitutional Affairs to monitor further developments in respect of the Commission's draft text and to refer the matter to it again if necessary;
13. Invites the chairmen and rapporteurs of the Committees on Constitutional Affairs and on Budgets to take up informal contacts on a political level with representatives of the Council and of the Commission in order to explore the developments in the Council with regard to horizontal measures dealing with the future structure of regulatory agencies;
14. Instructs its President to forward this resolution to the Council, the Commission and the governments of the Member States.
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