



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.12.1997
COM(97) 668 final

97/0016 (CNS)

**Amended proposal for a Council Regulation (Euratom, ECSC, EC)
determining the powers and obligations of agents
authorised by the Commission
to carry out Community own resources
controls and inspections**

(presented by the Commission pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

1. On 10 January 1997 the Commission presented a proposal for a Council Regulation to replace the Council Regulation (EEC, Euratom, ECSC) determining the powers and obligations of agents authorised by the Commission pursuant to Article 18(2) and (3) of Regulation (EEC, Euratom) No 1552/89,¹ to take into account developments in regulations and administrative procedures. The purpose of the changes made by the proposal is to cover on-the-spot inspections, extend the concept of "authorised agents" to cover seconded national experts and align the provisions governing VAT/GNP controls. As provided in Article 209 of the Treaty, the European Court of Auditors and the European Parliament were consulted on the proposal. They gave their opinions on 24 April and 17 September respectively.
2. In its opinion No 2/97 **the Court of Auditors** proposes amending Article 7 to specify the provisions applicable to VAT and GNP own resources with a view to having common and coherent arrangements for all own resources. Similarly the Court proposes amending the title of the new regulation so that it refers specifically to all own resources (since they are all covered by the new rules). **Parliament** adopted a single amendment² which takes up the substance of the idea expressed by the Court.
3. As regards the substance, the amendments proposed by the Court and Parliament can be taken on board. The new title of the proposal is clearer and reflects more accurately the content of the regulation. Article 7 should also be amended to highlight the provisions applying to VAT/GNP controls. The proposed new text is therefore in line with the requests of the Court and Parliament and also adds a paragraph 4 in Article 3 to take account of certain differences between traditional own resources inspections and VAT/GNP controls. This is because VAT/GNP controls are neither "inspection measures with which the Commission is associated" nor "inspection measures carried out by the Commission itself on the spot". They are controls performed on the Commission's initiative in (central) government departments in the Member States, in active association with these departments, to check the VAT/GNP calculation base and in no circumstances do they involve visits to taxable persons.

¹ COM(96) 717 final of 10 January 1997.

² PE 222.173.

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In response to the opinions of the European Court of Auditors¹ and the European Parliament,² the Commission is presenting the following amendments to its initial proposal.³

1. The title of the proposed regulation is replaced by the following:

“Proposal for a Council Regulation (Euratom, ECSC, EC) determining the powers and obligations of agents authorised by the Commission to carry out Community own resources controls and inspections”.

2. The following paragraph 4 is added to Article 3:

“4. The inspections provided for in Article 19 of Regulation (EEC, Euratom) No 1552/89 and the controls provided for in Article 11(1) of Regulation (EEC, Euratom) No 1553/89 shall be under the direction of the authorised agents who, as regards the organisation of work, shall establish appropriate contacts with the relevant departments in the Member States.”

3. Article 7 is amended to read as follows:

“7. The provisions laid down in Articles 1(2), 2, 3(1)(a), 3(1)(b), 4(1), 5 and 6 shall also apply to inspections carried out by officials or other servants of the Commission whom it has specifically authorised for this purpose pursuant to Article 11(1) of Regulation (EEC, Euratom) No 1553/89 and Article 19 of Regulation (EEC, Euratom) No 1552/89.

National experts seconded to the Commission may be present at such inspections.”

1. Opinion 2/97 of 24 April 1997.

2. Opinion of 16 September 1997, PE 222.173/fin.

3. COM(96) 717 final, 10 January 1997.

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