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Opinion of the Audit Board on the proposals for a regulation
amending the Financial Regulation of 25 April 1973 and Regulation No 2/71
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In letters of 26 May and 4 June 1976 the Commission asked the Audit Board to give an opinion on two proposals for regulations, which it has presented to the Council and the European Parliament, for the amendment of the Financial Regulation Regulation of 25 April 1973 and of Regulation No 2/71 on own resources.

The Audit Board examined those two proposals for regulations at its meetings of 22 June and 13 July 1976 and, after discussing them with the Commission staff on 16 July 1976, it adopted the present opinion on 27 July 1976.

1. European unit of account

Article 10 of the proposal for the amendment of the Financial Regulation replaced the current unit of account by the European unit of account for the purposes of the General Budget.

The Audit Board wishes to express some reservations with regard to the wording of Article 10: in the French version "la somme des montants" ("the sum of the amounts") should be replaced by "l'ensemble des montants". [Translator's note: the English version has been left unchanged but, strictly, should we not say "the sum of the countervalues"?] The reference to the Communication published in Official Journal No C 21 of 30 January 1976 does not seem justified.

Article 119 adds that the conditions in which the European unit of account is to be applied to revenue and expenditure are to be decided upon in accordance with the implementing measures envisaged in Article 118. However, no indication is given of how the definition of the European unit of account should be amended should changes arise in the economic indicators used as a basis for its calculation or in the case of the further enlargement of the Communities.

It would therefore be preferable for Article 10 merely to state that the budget is drawn up in European units of account (EUA), without laying down fixed amounts, and to draw up a special Council regulation defining that unit and indicating its value. This would prevent the need to amend the Financial Regulation if the definition of the European unit of account were changed.

2. Entry of revenue in the accounts

As regards revenue, Articles 5 and 6 of the proposal for the amendment of the Financial Regulation abandon the notion of established entitlements: the revenue of a financial year is to be entered in the accounts on the basis of the amounts collected during the financial year; Article 81(1) confirms this amendment.

However, Articles 17, 23 and 24 still lay down the powers of the authorizing officer, the Financial Controller and the accounting officer with regard to the establishment of entitlements, their approval, the assumption of responsibility for them and their collection, which does not seem to be in line with the amendment referred to the previous paragraph.

Similarly, Article 24 of the proposal for the amendment of Regulation No 2/71 indicates that to ascertain the balance for a given financial year, account must be taken of commitments still to be honoured but not of entitlements still to be collected. However, according to Article 6(3) of the proposal for the amendment of Regulation No 2/71 the established entitlements must still be entered in the accounts, which seems not to be consistent.

The Audit Board considers that revenue and expenditure should be administered in a more consistent manner. In the case of own resources, the amendment would imply that the revenue entered into the accounts for a financial year was the revenue established and collected by the Member States during the period from November to October, whereas in the case of expenditure (intervention by the EAGGF Guarantee Section), the figures in question would be the commitments and payments by the Member States' from January to December.

Entitlements must be established and entered in the accounts if the resources are to be defined correctly, if action is to be taken to collect entitlements and if the quality of the financial management is to be assessed.

Technical difficulties would also arise during the first year of the application of the proposed amendment, as only ten months of own resources would be involved.

3. Appropriations for commitment and appropriations for payment

Article 1 of the proposal for the amendment of the Financial Regulation distinguishes between appropriations for commitment and appropriations for payment. Commitment will become the determining factor in the amount of budget appropriations used each year, whereas the appropriations for payment will be subject to no time limit insofar as they correspond to commitments, and it will be possible to carry them forward globally.

The fact that a distinction is made between appropriations for commitment and appropriations for payment, and that it is commitments which form the basis of entry into the accounts, has the advantage of creating a closer link between the implementation of the budget and decisions on expenditure and of achieving a greater degree of correspondence between the implementation of the budget and the budget estimates.

However, the application of this system calls for more stringent controls, particularly by the external control bodies, on the items of expenditure committed, to prevent the inclusion of amounts which do not correspond to genuine legal commitments.

Formal provision should also be made for the consequences of cancellations of commitments after the close of the financial year during which the commitment was contracted. Appropriations for commitment thus released should be cancelled to comply with the principle of the annual nature of the budget and prevent the movement of appropriations between financial years.

This rule should be applied to all appropriations for commitment, including those allocated to the EAGGF Guidance Section, contrary to the provisions of Article 6(4) of the proposal for a new regulation.

It is important that the expenditure should be entered in the accounts by budget item, even in the case of the use of appropriations for payment which have been carried forward globally.

4. Appropriations for research and investment

The amendments proposed with regard to the functionally-orientated budget containing appropriations for research and investment are designed to simplify the documentation on those appropriations and their use; however, they do not represent much progress as far as regards the precise booking of expenditure from the appropriation accounts for the various research objectives.

The proposed text of Article 98 no longer contains any reference to the balances of the appropriation accounts, which have so far not been reflected in the budget; confirmation is given of the fact that expenditure from each appropriation account must remain within the limits of the appropriations authorized (paragraph 4).

The same Article also stipulates (paragraph 5) that expenditure from the appropriation accounts must be distributed over the various research objectives according to the work done by the instruments. This provision is not very realistic. It prevents a true picture of the financial situation from being gained insofar as the distribution of the expenditure purely on the basis of the use of the appropriations for each objective will probably leave a balance which will have to be distributed in its turn on the basis of different criteria (on the basis of the budget estimates or even of the available appropriations).

An addition at least would have to be made to the penultimate subparagraph of Article 98, indicating that the balances remaining in the appropriation accounts once distribution has been effected on the basis of the utilization of appropriations, and which are charged in turn to the research objectives and other activities, must be indicated under special headings in the revenue and expenditure account.

The new Article 98 (paragraph 5) also provides that expenditure on staff should be distributed over the appropriation accounts after deduction of the Community tax. This deduction is not in line with Article 9 of the Regulation on the tax, under which the revenue from that tax must be entered as revenue in the budget of the Communities.

5. Presentation and auditing of accounts

The Audit Board has noted that the proposal for the amendment of the Financial Regulation contains only some of the provisions of the Treaty of 22 July 1975 setting up a European Court of Auditors. Provision is made for more detailed and more appropriate rules to be drawn up at a later date, especially with regard to the exercise of the powers of the Court of Auditors, after the latter has been consulted and as soon as it has been set up (end of page 3 of the explanatory memorandum and third recital of the Regulation).

The proposals presented do not provide for the amendment of the system introduced by Council Regulation No 729/70 on the financing and commitment of expenditure from the EAGGF Guarantee Section. The total provisional commitments, corresponding to the monthly advances paid to the Member States, are maintained, and commitments in respect of each budget heading are not contracted until a later date when the payments declared by the departments and bodies responsible for payment have been entered in the accounts (Articles 107 and 108 of the Financial Regulation).

The accounting year therefore includes an additional three-month period (Article 109) to enable the commitments contracted and payments effected by the Member States up to 31 December to be entered in the accounts. The existence of this additional period means that 1 June is kept as the date by which the annual revenue and expenditure account must have been established (Article 81); there are no plans to alter that date although it is relatively late in the following financial year.

On the other hand, it is proposed that the time limits and rules laid down in Article 91 for the establishment and presentation of the annual report by the external control body and of the institutions' replies be amended. Such amendments could complicate the organization of the work of the Court of Auditors (the date currently applicable, i.e., 15 July, would be replaced by a flexible forty-five day period starting on a date which would vary but which would be before 1 June) and they would reduce the period currently allowed for the establishment of the report (the 45 days relate to the transmission of the document to the institutions, whilst the date currently applicable, i.e., 15 July, is the date by which the report must be drawn up).

Furthermore, on the basis of the provisions of the Treaty of 22 July 1975 relating to the presentation of the annual report by the Court of Auditors, the amended version of the Financial Regulation should include provisions rendering the Court of Auditors responsible for the establishment, transmission and publication of its report.

The report should be drawn up after the draft comments have been presented to the institutions, so that the Court of Auditors has their replies at its disposal. The replies must be annexed to the report by the Court of Auditors itself, possibly after discussion with the relevant authorities of the amendment to be made to the replies for the purpose of drawing up the final version of the report.

The Audit Board considers that Articles 85, 90 and 91 of the Financial Regulation should be worded as follows (including amendments to the references to the Treaties in Article 90):

Article 85

"The Commission shall forward the revenue and expenditure account, the financial analysis and the balance sheet to the Council, the European Parliament and the Court of Auditors by 1 June at the latest."

Article 90

"The Court of Auditors shall transmit to the Commission and the institutions concerned, by 15 July at the latest, any comments which are, in its opinion, of a nature such that they should appear in the report provided for in Article 78f of the Treaty establishing the European Coal and Steel Community, Article 206a of the Treaty establishing the European Economic Community and Article 180a of the Treaty establishing the European Atomic Energy Committee.

Each institution shall address its reply to the Court of Auditors by 30 September at the latest. The replies of the institutions other than the Commission shall be forwarded simultaneously to the Commission.

The Court of Auditors shall attach to the annual report an assessment of the soundness of the financial management."

Article 91

"The Court of Auditors shall transmit to the authorities responsible for giving discharge and to the other institutions, by 31 October at the latest, its annual report accompanied by the replies, and it shall ensure publication thereof in the Official Journal."

The amendments proposed in Articles 75 and 86, on the other hand, are not justified.

Firstly, although the regularization operations and the operations relating to the additional periods concern the previous revenue and expenditure account, the exact date on which they were effected must be indicated and not that of 31 December.

The documents supporting the accounts for the fourth quarter must still be transmitted within the time limit currently-applicable; only the documents relating to operations effected during the additional period may be transmitted separately at a later date.