

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(87) 400 final

Brussels, 24 July 1987

SECOND AMENDMENT OF THE PROPOSAL  
FOR A COUNCIL REGULATION (ECSC - EEC - EURATOM)

amending the Financial Regulation of 21 December 1977  
applicable to the general budget of the European Communities

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(submitted by the Commission)

COM(87) 400 final



## EXPLANATORY MEMORANDUM

### Proposal for the amendment of the Financial Regulation of 21 December 1977 to lay down rules to reflect the objectives presented by the Commission in COM(87) 100 and 101

In COM(87) 100 and 101 the Commission set before the Council and Parliament the objectives it will be aiming at in order to impose tighter budgetary management, the essential condition which must be fulfilled before the proposed decision on new own resources can be put into effect.

It will be recalled that this tighter budgetary management focuses essentially on the following three points:

(a) improvement in the conditions for establishing the budget (framework of multiannual forecasts, greater objectivity to avoid any overbudgeting, stricter application of the principle of annuality, improvement of schedules, etc.);

(b) closer monitoring of execution (stricter surveillance, elimination of unused commitments, more regular information, constant check on the cost-effectiveness of the various operations, etc.);

(c) amendment of the financial rules to provide the necessary framework within which these objectives can be attained.

It should be stressed that the need for this revision was explicitly recognized by the European Council (29 and 30 June 1987). Point 8 of its conclusions states:

"for expenditure as a whole, budget management rules must be strengthened, in particular through a reform of the Financial Regulation."

The appropriate amendments must therefore be made to the Financial Regulation in order to provide the technical base essential for the attainment of these objectives. Without this general revision of the Financial Regulation budgetary discipline cannot be imposed in practice and the everyday management of the budget cannot be improved.

The Commission also feels that the institutions concerned - in particular the Council, which is the legislative authority - must set themselves a timetable for completing the general revision of the Financial Regulation which fits in with the timetable set by the European Council for the other components of the current reforms of Community finance (new own resources, budgetary discipline, cohesion of structural Funds).

The revision of the Financial Regulation can be summarized as follows:

A. SPECIFIC CHANGES DERIVING EXPLICITLY FROM COM(87) 100 AND 101

There are five changes of this type:

1. Strengthening of the principle of annuality

(a) Carryovers no longer to be automatic

It has been found that with the existing rules large volumes of both commitment appropriations and payment appropriations (differentiated) are carried over at the end of each year. The present rules provide that unused appropriations at the end of year n automatically remain available until the end of year n + 1.

It is therefore proposed that in future the carryover should no longer be automatic. The new principle is that commitment appropriations and payment appropriations not used at the end of the year will lapse, unless the Commission decides - not later than 15 February of n + 1 - to carry them over after carefully considering the reasons for doing so. The budgetary authority will be informed immediately.

(b) Restoration of certain appropriations following cancellation of commitments

Under the present rules, when ERDF and EAGGF Guidance commitments are cancelled, the corresponding appropriations become available again. In the case of the ERDF this is automatic and in the case of EAGGF Guidance it is at the Commission's discretion.

It is now proposed that the automatic arrangement be discontinued (ERDF) and, that the arrangements be updated and made uniform for the entire budget (differentiated appropriations). When commitments are cancelled, the appropriations involved will, in principle, no longer be restored, unless the Commission - by way of exception and with proper justification - decides, before 15 February of each year in parallel with the procedure referred to at (a) above, to keep them in existence. The budgetary authority will be informed at the same time.

Appropriate amendments will have to be made to Articles 1, 7,<sup>\*</sup> 25<sup>\*</sup> and 73<sup>\*</sup> of the Financial Regulation.

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\*Numbering proposed by the Commission in COM(84) 123 final of 9 March 1984 (Proposal for the general revision of Financial Regulation).

## 2. Introduction of an overall reserve

With the objectives it announced in COM(87) 100 and 101 the Commission felt that in future it would have to have a specific overall reserve to counterbalance the tighter line it will be taking in determining the level of budget appropriations.

The Commission's intention with this proposal is to adopt an extremely strict and parsimonious approach to forecasting and budgeting, provided however that an overall reserve, of suitable size, is available to be drawn upon in case of need.

As this overall reserve is not the same as the traditional reserves already provided for by the present rules (Article 15(4) of the Financial Regulation of 21 December 1977: provisional appropriations and contingency reserve), the appropriate amendment is therefore proposed.

## 3. Changes to the special provisions applicable to the EAGGF Guarantee Section

The Commission has proposed an amendment to the existing arrangements to replace the present system of advances by a system of reimbursements.

A proposal (COM(87) 212 final of 30 April 1987) based on Article 43 EEC covering the substance of this planned change (revision of Regulation No 729/70) has already been presented.

The amendments to the Financial Regulation - based on Article 209 EEC - which are necessary if the change in the system resulting from the amendment of Regulation No 729/70 is to be operational are included here.

The following points should be made concerning the changes to the Financial Regulation:

(a) As regards substance

The changeover in the system and the requirements of budgetary discipline involve the following amendments:

- the system of "global advances" is dropped and replaced by a system of ex-post reimbursements;

- it will therefore no longer be necessary to book expenditure in global terms; when the reimbursements are made expenditure will be booked item by item;

- this means that reimbursements will be possible only if appropriations are available for each item, an essential condition if budgetary monitoring of expenditure is to be improved. If appropriations are short, the necessary transfer procedure will first have to be initiated. Transfers will therefore be "authorizing" transfers (and not "regularizing" transfers as in the past);

- the provisional twelfths arrangements will then apply in the conventional way in this area too (as "advances" = "commitments" will have been stopped, there will no longer be three twelfths automatically available at the beginning of the year). If necessary, the budgetary authority will have to be asked to supply additional twelfths as provided in Article 8 of the Financial Regulation.

(b) As regards procedure

The amendment is incorporated into the text of the 1984 "amended proposal"<sup>1</sup> in line with the requests of Parliament and the Court of Auditors on certain points (concerning clearance).

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<sup>1</sup> COM(84) 123 final of 9 March 1984.

4. Changes to certain provisions relating to own resources

A number of articles<sup>1</sup> of the Financial Regulation contain provisions concerning own resources. These are not, however, of any real legislative importance<sup>2</sup> but are mainly passing references and statements.

Appropriate drafting changes will have to be made to these provisions in due course, i.e. when it is known what changes have been made to the basic instruments on new own resources.

5. Extension of the role of the ECU

COM(87) 100 and 101 fit into the new context created by the Single Act, Article 20 of which adds an Article 120 A to the EEC Treaty officially recognizing the ECU and advocating its development.

The Commission therefore considers itself justified in proposing in Article 11<sup>3</sup> of the Financial Regulation the principle - except where specific sectoral regulations demand otherwise - of generalized application of the ECU, not merely as an accounting instrument (which it has always been), but also as an instrument for expressing the Community's financial rights and obligations and as an instrument of "settlement" (payment) in connection with the execution of the general budget.

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<sup>1</sup>Articles 6, 17, 20, 30, 32 and 34 (numbering in COM(84) 123 final).

<sup>2</sup>The basic instruments for own resources are:

- |   |   |                            |
|---|---|----------------------------|
| - the basic decision of 7 May 1985      | ) | All these instruments will |
|   | ) | have to be revised on the  |
| - the implementing Regulations (2891/77 | ) | basis of the Commission's  |
| and 2892/77)                            | ) | new proposals              |

<sup>3</sup>Numbering in COM(84) 123 final.

B. SPECIFIC CHANGES CONNECTED WITH THE PRELIMINARY DRAFT BUDGET FOR 1988

When presenting the preliminary draft budget for 1988 the Commission proposed (COM(87) 284 final of 25 June 1987) a number of specific changes to the structure of the budget (addition of an Annex II to Section III to accommodate and isolate expenditure on staff employed outside the Community and introduction of a Section VI to isolate interinstitutional expenditure).

The Commission stands by these proposals, whatever decision may be taken on them during the procedure for the establishment of the 1988 budget.

C. GENERAL REVISION OF THE FINANCIAL REGULATION

Article 107 of the Financial Regulation of 21 December 1977 specifically states that the Regulation should have been revised after three years. It had quite rightly been foreseen that the Financial Regulation needs to be adjusted regularly to changing requirements as regards the content of the budget (new policies) and the conditions of budgetary execution and financial management.

The Commission proposed a general revision in December 1980;<sup>1</sup> after the Court of Auditors (May 1981) and Parliament (September 1983) had delivered their opinions, the Commission presented an amended proposal<sup>2</sup> in spring 1984 incorporating most of the points made by the Court of Auditors and Parliament in their opinions. It should be stressed that most of the articles of the present Financial Regulation are out of date: this is easily demonstrated by the fact that the 1984 amended proposal left only 34 out of 120 articles unchanged (72 articles were amended and 22 new ones were introduced to satisfy new requirements).

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<sup>1</sup>COM(80) 760 final of 12 December 1980.

<sup>2</sup>COM(84) 123 final of 9 March 1984.



It must be emphasized that apart from the articles concerned by the specific changes discussed at A and B above, the 1984 proposal is upheld in full.

Although the Council, under various presidencies, has devoted a certain amount of time to these proposals, it has not managed to take the action that this important subject requires.

The Commission - re-echoing the repeated calls made by the other institutions with a close interest (Parliament and Court of Auditors) - must once again appeal to the Council to take the steps, in particular as regards its internal organization, which will enable it to take the necessary decisions.

The the new context created by the objectives set in COM(87) 100 and 101, has made it absolutely essential to conduct an overall revision of the Financial Regulation, which is the basic instrument setting out the arrangements for establishing and executing the budget: a piecemeal approach - with the revision limited to certain sectoral provisions - would not satisfy the overall, imperative demands.

SECOND AMENDMENT OF THE PROPOSAL  
FOR A COUNCIL REGULATION (ECSC, EEC, EURATOM)  
amending the Financial Regulation of 21 December 1977<sup>1</sup>  
applicable to the general budget of the European Communities<sup>1</sup>

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1. The following three recitals are added after the fourth recital

"Whereas the Financial Regulation needs to be amended in the light of the measures to be taken to make a success of the Single Act as regards tighter budgetary discipline and greater transparency of budget appropriations, in particular by reinforcing the principle of annuality.

Whereas the Financial Regulation states that the budget shall be drawn up in ECU, that the amounts shall be kept in ECU and that the revenue and expenditure account and the balance sheet shall be presented in ECU; whereas the principle of expressing and implementing the Community's financial rights and obligations in ECU should therefore be established.

Whereas the Financial Regulation must reflect the changeover from the system of advances for the EAGGF Guarantee Section to a system of reimbursements to take account of the amendments made to Regulation (EEC) No 729/70 of 21 April 1970.<sup>2</sup>"

2. Article 1(4) of the amended proposal: the following paragraph 4a is added.

"4a. The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted."

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<sup>1</sup> OJ C 97, 9.4.1984

<sup>2</sup> OJ L 94, 28.4.1970, p. 26.

## II

*(Preparatory Acts)*

## COMMISSION

**Second amendment to the proposal for a Council Regulation amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities <sup>(1)</sup>**

COM(87) 400 final

*(Submitted by the Commission to the Council on 29 July 1987)*

(87/C 278/07)

1. *The following three recitals are added after the fourth recital*

'Whereas the Financial Regulation needs to be amended in the light of the measures to be taken to make a success of the Single Act as regards tighter budgetary discipline and greater transparency of budget appropriations, in particular by reinforcing the principle of annuality;

Whereas the Financial Regulation states that the budget shall be drawn up in ECU, that the amounts shall be kept in ECU and that the revenue and expenditure account and the balance sheet shall be presented in ECU; whereas the principle of expressing and implementing the Community's financial rights and obligations in ECU should therefore be established;

Whereas the Financial Regulation must reflect the changeover from the system of advances for the EAGGF Guarantee Section to a system of reimbursements to take account of the amendments made to Regulation (EEC) No 729/70 of 21 April 1970 <sup>(2)</sup>,

<sup>(2)</sup> OJ No L 94, 28. 4. 1970, p. 26'.

2. *Article 1 (4) of the amended proposal: the following paragraph 4a is added*

'4a. The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted.'

<sup>(1)</sup> OJ No C 186, 16. 7. 1987, p. 7.

3. *Article 7 of the amended proposal:*

paragraphs 2, 3, 4, 6, 7 and 8 are amended as follows:

'2. In the case of budget headings where a distinction is made between commitment appropriations and payment appropriations, commitment appropriations and payment appropriations which have not been used at the end of the financial year for which they were entered may, by decision of the Commission taken not later than 15 February, be carried over to the next financial year only.

The Commission shall inform the budgetary authority of the decision taken and state the reasons for carrying over the appropriations.

3. In the case of appropriations which were entered in the budget chapters containing "provisional appropriations" and which remain available at the close of the financial year:

(a) appropriations in respect of staff and administrative expenditure (Titles 1 and 2) may not be carried over;

(b) appropriations in respect of other expenditure may be carried over to the next financial year only.

4. In the case of appropriations on which a decision to carry over may be taken under paragraph 1 (b), the Commission shall submit to the budgetary authority, not later than 15 February, the duly substantiated requests to carry over appropriations made by Parliament, the Council, the Court of Justice, the Court of Auditors and by the Commission itself.

The Council shall consult Parliament and, acting by qualified majority, shall decide on the requests to carry over appropriations in respect of expenditure necessarily resulting from the Treaties or acts adopted in accordance therewith.

Parliament shall consult the Council and act on the requests to carry over appropriations in respect of expenditure other than that necessarily resulting from the Treaties or acts adopted in accordance therewith.

If no decision is taken by the budgetary authority within six weeks, the requests to carry over appropriations shall be deemed to have been approved.

6. The following appropriations shall lapse at the end of the year:

- (a) appropriations from the previous financial year:
- appropriations carried over by decision of the budgetary authority under paragraph 1 (b) which have been neither committed nor paid,
  - appropriations carried over automatically which have not been paid,
  - commitment appropriations and payment appropriations carried over by the Commission under paragraph 2 and remaining unused at the end of the financial year;
- (b) appropriations of the financial year which have not been carried over.

7. When commitments in budget headings where there is a distinction between commitment appropriations and payment appropriations are cancelled in any financial year after that in which the commitment appropriations were entered in the budget, the appropriations concerned may be made available again and recommitted.

At the beginning of each financial year, the Commission shall therefore examine the cancellations which have taken place in the previous financial year and assess, in the light of requirements, the need for making the appropriations available again.

The Commission shall take this decision by 15 February of each financial year: it shall inform the budgetary authority of the decision taken and state the reasons for maintaining these appropriations.

8. The revenue and expenditure account shall show the automatic carryovers, the appropriations carried over by decision of the budgetary authority, those carried over by decision of the Commission and the appropriations made available again by the decision of the Commission after commitments have been cancelled.'

4. *Article 8 of the amended proposal:*

paragraph 4 is deleted.

5. *Article 9 of the amended proposal:*

the final subparagraph of paragraph 2 (a) is deleted.

6. *Article 11 of the amended proposal:*

this Article is replaced by the following:

'1. The budget shall be drawn up in ECU.

2. The ECU is the sum of specified amounts of the currencies of the Member States as set out in Council Regulation (EEC) No 3180/78 of 18 December 1978 changing the value of the unit of account used by the European Monetary Cooperation Fund <sup>(1)</sup> <sup>(2)</sup>.

Any change in the composition of the ECU decided on in accordance with Regulation (EEC) No 3180/78, shall automatically apply to this provision.

The value of the ECU in a given currency shall be equal to the sum of the equivalents in that currency of the amounts of the currencies which make up the ECU.

3. The financial rights and obligations of the Communities shall be expressed and implemented in ECU.

4. When the principle set out in the third paragraph cannot be complied with because of special derogations arising from the application of sectoral rules governing debts or expenditure, any conversion between the ECU and a national currency shall be effected in accordance with the special provisions referred to in Article 123.'

7. *Article 19 of the amended proposal:*

(a) Paragraph 4 is replaced by the following:

'4. Each section of the budget containing appropriations for administrative expenditure must include a chapter for provisional appropriations and a "contingency reserve" chapter. The appropriations entered in these chapters may be used only by means of transfer in accordance with the procedure laid down in Article 25.'

<sup>(1)</sup> OJ No L 379, 30. 12. 1978, p. 1, as last amended by Council Regulation (EEC) No 2626/84 of 15 September 1984 (OJ No L 247, 16. 9. 1984).

<sup>(2)</sup> The following amounts applied when this Regulation entered into force:

— German marks	0,719,
— Pounds sterling	0,0878,
— French francs	1,31,
— Italian lira	140,00,
— Dutch guilders	0,256,
— Belgian francs	3,71,
— Luxembourg francs	0,14,
— Danish kroner	0,219,
— Irish pounds	0,00871,
— Greek drachmas	1,15.

(b) The following paragraph 4a is added:

'4a. Each part of the budget containing operating appropriations must include a chapter for provisional appropriations and, in a separate section, an overall reserve for meeting any requirements which may arise as a result of the strict approach adopted when determining the initial allocation.

The appropriations entered in the overall reserve may be used only by means of transfer in accordance with the procedure laid down in Article 25.'

8. *Article 25 of the amended proposal:*

Paragraph 8 is replaced by the following:

'8. The appropriations which may be transferred shall be as follows:

- (a) non-differentiated appropriations for the current financial year;
- (b) non-differentiated appropriations carried over under Article 7 (1) (b);
- (c) commitment appropriations for the current financial year;
- (d) commitment appropriations carried over from the preceding financial year under Article 7 (2);
- (e) payment appropriations (differentiated) for the current financial year;
- (f) payment appropriations (differentiated) carried over under Article 7 (2).

The transfers of carryovers under (b) must be proposed at the same time as the request for a carryover is submitted to the budgetary authority.

The transfers of carryovers under (d) and (f) must be proposed at the same time as the budgetary authority is informed of the Commission's decision to carry over these appropriations.

These proposals for transfers must be duly substantiated.'

9. *Article 78 of the amended proposal:*

- (a) The last indent of paragraph 2 is replaced by the following:  
'— appropriations carried over under Article 7.'

(b) The fourth indent of paragraph 3 is replaced by the following:

'— commitment appropriations carried over under Articles 7 and 92 (4)';

(c) The first indent of paragraph 4 is replaced by the following:

'— the amount of appropriations carried over, a distinction being made between commitment appropriations, payment appropriations and non-differentiated appropriations.'

10. *Article 97 of the amended proposal:*

The second paragraph of this Article is replaced by the following:

'In accordance with Article 4 (2) of this Regulation, the Member States shall place the necessary appropriations for these operations at the disposal of the designated authorities and bodies.'

11. *Article 98 of the amended proposal:*

This Article is replaced by the following:

'1. Expenditure effected by authorities and bodies under Article 4 of Regulation (EEC) No 729/70 and reimbursed to the Member States by the Commission under Article 5a (1) of the same Regulation shall be booked to the accounts of a given financial year on the basis of the reimbursements made by the Commission during that financial year.

2. The reimbursement of expenditure incurred by the Member States and the detailed booking of that expenditure as commitments and payments to the relevant budget headings shall be carried out after examination of the statements sent in by the Member States in accordance with the provisions laid down pursuant to Article 5 (3) of Regulation (EEC) No 729/70.

3. Paragraphs 1 and 2 shall apply without prejudice to the clearance of accounts provided for in Article 5 (2) of Regulation (EEC) No 729/70.'

12. *Article 99 of the amended proposal:*

this Article is deleted.

13. *Article 100 of the amended proposal:*

this Article is deleted.

14. *Article 101 of the amended proposal:*

- (a) In the *first subparagraph of paragraph 1* 'Article 5 (2) (b)' is replaced by 'Article 5 (2)';

(b) In the *final subparagraph of paragraph 1*, footnote (1) is deleted;

(c) *Paragraph 4* is replaced by the following:

'4. The outcome of the clearance decision, i.e. any difference which may exist between the total expenditure booked to the accounts for a financial year pursuant to Article 98 and the total expenditure established by the Commission when clearing the accounts shall be booked, under a single article, as increased or reduced expenditure for the financial year in which the accounts are cleared. However, if the procedures required for this purpose — transfers or a supplementary or amending budget — cannot be completed by the end of the year, the clearance decision shall be booked as soon as possible to the following financial year.'

15. *Article 102 of the amended proposal:*

this Article is deleted.

16. *Article 103 of the amended proposal:*

this Article is replaced by the following:

'1. Transfers from article to article and from item to item within a chapter shall be made by Commission decision taken no later than 31 December.

The Commission shall inform the budgetary authority of such transfers.

2. The Commission may make proposals to the budgetary authority, in accordance with Article 25, for transfers of appropriations from chapter to chapter. The Council shall take a decision by qualified majority within four weeks, after consulting Parliament. If the Council does not act within this time, the transfers of appropriations shall be deemed to be approved.

3. The Commission shall take decisions on transfers of appropriations between the EAGGF Guarantee chapters and the food aid chapter, where such transfers are made necessary by changes, in relation to the appropriations authorized, in the parts of the expenditure chargeable to the respective chapters.

The Commission shall inform the budgetary authority 15 days before making such transfers.'

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