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TREATMENT OF THE MAIN BUDGETARY ASPECTS
IN THE RULES GOVERNING DECENTRALIZED COMMUNITY BODIES

(Commission communication to the budgetary authority)

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I. FORMS OF DECENTRALIZATION

As the range and variety of the tasks confronting the Community institutions - especially the Commission - has grown over the years, a number of specialized decentralized bodies (commonly known as "satellite" bodies) have been set up to provide an effective and flexible response to emerging needs.

There are two especially notable features about these bodies: they are endowed with legal personality and so enjoy autonomy in performing the tasks defined in the acts establishing them; and the financial resources they need are provided by subsidies¹ from the general budget of the Communities. The first such bodies came into being in 1975 with the creation of the European Centre for the Development of Vocational Training and the European Foundation for the Improvement of Living and Working Conditions.

Although their legal autonomy is not questioned, these first two satellite bodies still closely mirror the Community's budgetary mechanisms, especially in the following respects:

- under the acts by which they were established, the financial provisions governing them are adopted by the Council acting on the basis of Article 209 (i.e. under the same procedure that applies for the adoption of the Financial Regulation applicable to the general budget);
- the establishment plan is adopted by the budgetary authority and formally comes under the general budget;
- responsibility for internal financial control rests with the Commission's Financial Controller;
- discharge is granted by the authority responsible for discharge in respect of the general budget.

¹ As a rule the subsidies cover almost all their financial requirements, except for a small amount covered by miscellaneous revenue. However, some bodies (for instance, the Trade Marks Office that is due to be set up) could be self-supporting through charges levied on their users.

Such close alignment was only natural at the time, given that this was the first exercise of its kind and there was no previous experience to go by.

The first-generation satellite bodies proved their worth and served as the basis for the creation of a second generation, distinguished by some easing and rationalization of certain aspects. In 1990, then, following Commission proposals and after obtaining the opinion of Parliament, the Council decided that two new bodies - the European Environment Agency and the European Training Foundation - should be set up (although their operational establishment is still on ice pending a decision on their location).

The Commission has also proposed the creation along similar lines of the European Agency for the Evaluation of Medicinal Products (1990), the European Agency for Safety and Health at Work and the European Drugs Monitoring Agency (both 1991).

Besides the above bodies, the Commission proposed the establishment of the Community Trade Marks Office in 1980 and of the Community Plant Variety Office in 1990. However, these two differ markedly from the others in several respects. They form a distinct category since, on the financial side, they are ultimately meant to be entirely self-financing through charges on users. But in view of their special purpose and their quasi-judicial functions, the Commission's proposals contained the suggestion that their budgets should be included in the general budget as annexes. This has a number of implications (e.g. application of the Financial Regulation except where derogations are granted, discharge to be given by Parliament, etc.). Parliament backed this approach in its opinions. Consequently the guidelines set out at III below do not cover these two special cases.

II. CHANGES AFFECTING BUDGETARY ASPECTS

In terms of their internal organization the satellite bodies are very similar: in each case the chief decision-making body is the "management board", on which the Commission is represented. As a rule day-to-day management and budget implementation are delegated to the "Executive Director". In this respect the internal structure of the satellite bodies hardly changed between 1975 and 1990.

On the other hand there have been substantial changes as regards the purely budgetary aspects. Specific powers that were assigned to the Council, Parliament and Commission in the first generation now rest with the management board in the second. This increase in the board's powers - made in the light of experience with a view to greater decentralization - has led to greater budgetary autonomy for the satellite bodies. The grounds underlying these developments are set out in the following section.

III. GUIDELINES FOR FUTURE DEVELOPMENT AND GROUNDS

1. Granting boards the power to adopt financial provisions

The most significant development has been the move towards granting the boards the power to adopt their own financial provisions. The fact that the power to adopt financial rules for the first-generation satellite bodies (dating from 1975) rests with the Council means that the extremely cumbersome procedure of Article 209 EEC has to be used. The financial provisions for the Dublin Foundation and the Berlin Centre are notable examples: Commission proposals were made in 1981, 1990 and March 1992, yet the Council has still not managed to approve the urgently needed revision of the regulations - even though they involve only technical adjustments with no political implications.

With the setting up of the first second-generation bodies in 1990, the legislator followed the Commission's proposal, granting this power to their boards. The main advantage is that the board decides by a majority vote, which means that there is greater autonomy and flexibility, and length of the procedure is greatly reduced.

It should be noted that all the satellite bodies are bound to comply with Article 130 of the Financial Regulation. Accordingly they must follow the provisions of the Financial Regulation as far as possible, departing from them only where their specific operational requirements make it imperative to do so. Compliance with this principle, anchored in the Financial Regulation, should ensure the desired homogeneity between the financial provisions governing the budgets of the various satellite bodies.

It needs to be emphasized that when adopting their financial rules, the satellites will have to take account of the opinion given by the Commission and the Court of Auditors - even though this has not always been the case so far. In this way the two institutions can ensure that the principle laid down in Article 130 of the Financial Regulation is properly respected.

Granting the management boards the power to adopt their financial provisions is in line with the need for decisions to be taken at an appropriate level as close as possible to the matter being dealt with. The financial rules of the satellite bodies are confined to a specific sector and can be dealt with by their own boards. They concern only the satellites and so do not require the intervention of the - more remote - Community legislator (Council, after obtaining the opinion of Parliament), given that Article 130 of the Financial Regulation has to be complied with.

2. Reasons for giving boards the power to grant discharge for the implementation of budgets

Under the 1975 Regulations creating the Centre for the Development of Vocational Training and the Foundation for the Improvement of Living and Working Conditions, the discharge decision rests with the Council and Parliament, in line with Article 206 EEC as it then stood. In actual prac-

tice, by analogy with the discharge procedure introduced for the general budget by the revision of the Treaty of 22 July 1975, it is Parliament that grants the boards of the satellite bodies a discharge. This, then, follows from the Brussels Treaty of 1975 transferring the power of discharge to Parliament.

In the case of the second-generation satellite bodies, however, the power to grant a discharge to the Executive Directors was given to the respective boards. The reasons behind this development are as follows:

- (a) Parliament already grants the Commission a discharge in respect of the "subsidy" under the general budget

The first point is that the budgetary authority - and hence, by definition, Parliament - receives all the necessary financial information about the budgets of the satellite bodies at the various stages of the budget procedure:

- when the preliminary draft budget is drawn up by the Commission

In accordance with Article 13(4)(b)¹ of the Financial Regulation, the estimates of revenue and expenditure for the satellite bodies are supplied as working documents accompanying the preliminary draft budget;

- during implementation

Once the boards of the satellite bodies have drawn up their budgets, the Commission regularly provides the budgetary authority with information on the utilization of appropriations under the various budget headings, including those covering the subsidies, as implementation proceeds;

- in the course of the discharge procedure

With this regular monitoring and the report by the Court of Auditors on the implementation of the satellite bodies' budgets, Parliament has all the information it needs for the purposes of its discharge to the Commission as regards the use made of the appropriations for subsidies.

1 See Annex 1.

(b) the scope of the discharge procedure as regards the satellite bodies' tasks

The purpose of the discharge is twofold:

- accounting: the discharge fixes the final outturn of expenditure and revenue for the year in question;
- political: the discharge procedure is meant to allow an assessment to be made of implementation in substantive terms, i.e. on the way the executive has acted to achieve the objectives assigned to it.

Under the acts establishing them, the satellite bodies are given limited, specific tasks. Basically they serve a technical function, acting in support of Community policies. They cannot, therefore, properly be deemed politically accountable to Parliament, this being the Commission's role.

Under Article 206b of the Treaty and the corresponding provisions of the Financial Regulation (see Article 89), the main part opposite Parliament in connection with the discharge falls to the Commission.

The role assigned to the Commission by the Treaty is to exercise sole responsibility for everything under the broad heading of the executive branch. That includes the smooth functioning of the satellite bodies. These are structured in such a way that the Commission can exercise proper supervision without encroaching on their operational autonomy. It is represented on the management boards that direct and constantly monitor their activities. It has a right to keep regular watch on the programmes of activities which the satellites are obliged to draw up. It is therefore well placed to judge whether those activities accord with the tasks conferred on them and whether they tie in with Community policies. Again, it is the Commission that submits the requests for subsidies to the budgetary authority, together with any comments where appropriate. Its influence at the different levels can only be enhanced by the recognition that it is also the Commission alone that will have to answer before Parliament in the course of the discharge procedure.

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A further point to bear in mind, in the Commission's view, is the sizeable burden on Parliament which would be involved if it also had to give a discharge direct to each of the growing number of satellite bodies, although it is not a political issue. Parliament would then be granting a discharge twice, once on the subsidy and once on the decentralized budget. The only - and perfectly natural - reason for the precedent of the Berlin and Dublin bodies is the fact that there was no previous experience to go by when they were set up. The approach adopted for the second-generation should, then, be confirmed for the reasons set out above.

3. Internal financial control

The case for appointing the Financial Controller to exercise this function rests on pragmatic grounds and considerations of efficiency. Particularly by virtue of his experience and knowledge of the different budgetary areas, he is best placed to ensure the desired homogeneity in the application of the financial rules to all the satellite bodies.

CONCLUSION

The Commission therefore takes the view that the following approach should be followed as regards the main budgetary aspects relating to the satellite bodies:

1. Newly created satellite bodies

The following guidelines should apply in future for the basic Council regulations establishing decentralized bodies:

- the Council will give the management board of each decentralized body responsibility for adopting its own financial rules, in compliance with Article 130 of the Financial Regulation applicable to the general budget, after obtaining the opinion of the Commission and the Court of Auditors;
- the discharge will be given by the management board of each satellite body;
- internal financial control will be exercised by the Commission's Financial Controller.

2. Existing satellite bodies

For existing decentralized bodies, on the other hand, the status quo will be maintained for the moment. But if the corresponding basic regulations need to be revised for other reasons, this would offer an opportunity to align them on the above guidelines as well, in order to achieve maximum harmonization in the long run.

Extract from Financial Regulation

Article 13 (4)

- (b) in respect of subsidies to the bodies set up pursuant to the Treaties or Acts adopted in accordance therewith and to the Supply Agency, an estimate of revenue and expenditure prefaced by an explanatory statement drawn up by the bodies concerned; for the European Schools, a statement showing revenue and expenditure prefaced by an explanatory statement.