

European Communities

EUROPEAN PARLIAMENT

732,11

43

Working Documents

1977 - 1978

13 December 1977

DOCUMENT 434/77

Report

drawn up on behalf of the Committee on Budgets

on the conciliation regarding the Financial Regulation of the Communities

Rapporteur: Mr Michael SHAW

On 23 June 1976, the Committee on Budgets appointed Mr SHAW rapporteur on the proposal from the Commission of the European Communities to the Council for a regulation amending the Financial Regulation of 25 April 1973 applicable to the General Budget of the European Communities.

Following the conciliation of 7 November and 22 November 1977, Mr Shaw prepared a report on the outcome for the Committee on Budgets.

The Committee on Budgets considered the Draft Report at its meeting of 1 December. It unanimously adopted the Motion for a Resolution and Explanatory Statement at that meeting.

Present : Mr Lange, Chairman; Mr Bangemann, Vice-Chairman; Mr Cointat, Vice-Chairman; Mr Shaw, rapporteur; Mr Van Aerssen, Mr Alber, Mrs Dahlerup, Mr Früh, Mr L'Estrange, Mr Notenboom, Mr Radoux, Mr Schreiber, Mr Scott-Hopkins and Mr Spinelli.

At its meeting on 8 December 1977, the Committee on Budgets unanimously approved further amendments to the Motion for a Resolution and the Explanatory Statement to take account of the outcome of the conciliation meeting of 7 December 1977.

C O N T E N T S

	<u>Page</u>
A. MOTION FOR A RESOLUTION	5
B. EXPLANATORY STATEMENT	9
The conciliation procedure	9
The Financial Regulation	9
Parliament's reaction to the 'common position'	10
The conciliation committee meeting of 7 November 1977	11
Outcome of the discussions	11
Nomenclature	12
Commitments	12
Borrowing and lending	12
Transfers	12
EUA	12
Research & investment amendments	13
Control aspects	13
Carry forwards	13
Remarks column	13
Article 107 - transfers within EAGGF	13
Informing the European Parliament	14
Supplementary budgets	14
Commitment appropriations	14
The conciliation committee meeting of 22 November 1977	15
Approval of the decisions of the meeting of 7 November 1977	15
Agreement on transfers	15
Agreement on remarks	16
Decision on the research and investment part	16
The control part	17
Meeting on 7 December 1977 - EUA, own resources and control	17
Further meeting	17

The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

embodying the opinion of the European Parliament on the conciliation regarding the Financial Regulation of the Communities

The European Parliament

- having regard to its resolution of 14 December 1976¹,
 - having regard to the common position of the Council on the proposed amendments to the Financial Regulation,
 - having regard to the reports of the Committee on Budgets, (Doc. 305/75, Doc. 296/76, Doc. 469/76 and Doc. 168/77),
 - having regard to the special nature of the inter-institutional dialogue in the framework of the Conciliation Committee,
 - having regard to the outcome of the conciliation procedure as described in the report of the Committee on Budgets (Doc. 434/77),
 - having regard to paragraph 7 of the joint declaration of the European Parliament, the Council and the Commission of 4 March 1975²,
- (a) regarding the Financial Regulation as being of fundamental importance to the efficient management of Community finances, the implementing of the budget and the presenting and auditing of accounts;
 - (b) taking note of the changes brought about by the Treaty of 22 July 1975, which came into force on 1 June 1977;
 - (c) appreciating that great urgency attaches to the early completion of the revision of the Financial Regulation;
 - (d) recalling, in particular, that, in its resolution of 26 October 1977³ on the draft budget of the Communities for 1978, it drew attention, once again, to the need for bringing the revised Financial Regulation into force in time for the financial year immediately ahead;
 - (e) considering that special importance attaches to the provisions relating to the annual nature of the budget nomenclature, commitment appropriations, transfers, and carry forwards.

¹ OJ No. C 6, 10.1.1977, p. 18

² OJ No. C 89, 22.1.1975, p. 1

³ OJ No. C 280, 21.11.1977, p. 24

- (f) accepting that certain matters concerning the differences of inter-institutional views on implementing the budget (including borrowing and lending operations), control aspects and research and investment provisions will need to be gone into again in the future by the Conciliation Committee;
 - (g) noting that the Conciliation (meetings of 7 and 22 November 1977 and 7 December 1977) was successful in that it resulted in the widely differing views of the Council and Parliament being brought sufficiently close to enable definitive action to be taken on the Financial Regulation;
 - (h) believing that the experience of this initial conciliation augurs well for the future of this forum as an instrument for resolving political differences between the Council and Parliament;
1. Appreciates the constructive spirit in which the conciliation was carried out;
 2. Considers that the attitude of the participating Institutions was firmly inspired by the ideal of respect for the budgetary provisions of the Treaties which bind all the Institutions of the European Communities;
 3. Gives its approval to the conclusions of the Conciliation Committee relating to the following matters already set out in its resolution of 14 December 1976:
 - (a) Modifying the budgetary nomenclature during the budgetary procedure;
 - (b) Determining commitment appropriations within the budgetary procedure;
 - (c) Granting to Parliament the same rights and responsibilities in connection with transfers as it has in connection with the original budget entries;
 - (d) Allowing carry forwards for one year, on the budgetary line;
 - (e) Approving Parliament's amendments, regarding the conveying of information, to Articles 11 and 12 of the Financial Regulation;
 4. Notes that, in accordance with the provisions applicable and the respective spheres of competence of the various institutions, the remarks may include conditions governing the execution of the expenditure as authorized by the heading of the article or item in question;

5. Approves the agreement of the principle that, while respecting the rights of the Commission in regard to the implementing of the budget, there should be a possibility for the Commission to refer - before final decisions are taken - to the European Parliament, for its opinion, instances where measures under consideration were of a nature which would probably result in the appropriations under a particular chapter of the EAGGF Guarantee being exceeded substantially;
6. Agrees with reservations to the Council's wishes to reflect this procedure in the minutes of the Conciliation Committee meeting rather than by way of amendment to the Financial Regulation;
7. Calls, with the Council, on the Commission to examine, as a matter of urgency, the complex provisions in the part of the Financial Regulation devoted to research and investment appropriations with a view to finding solutions to the difficulties that arose in the context of the examination of the draft budget, 1978;
8. Calls, with the Council, on the Court of Auditors to furnish an opinion on the Financial Regulation in accordance with Article 18 of the Treaty of 22 July 1975 and undertakes to revise the Financial Regulation, if necessary, in the light of this opinion;
9. Stresses that it is essential, in due course, to provide for the full budgetising of borrowing and lending operations;
10. Expects that the borrowing aspect will be gone into further in future conciliation on the problems related to the implementing of the budget;
11. Considers that respect for the provisions of the Treaties imposes a distinction between payment appropriations and commitment appropriations and that this separation should be maintained throughout the duration of the budgetary procedure;
12. Agrees that the provisions of Article 203 of the EEC Treaty would apply separately to appropriations for commitment and appropriations for payment;
13. Appreciates, nevertheless, that the effects of the new concept of commitment appropriations cannot yet be completely foreseen, so that the position may require further review in the future;

14. Notes the decision of the conciliation committee agreeing to the inclusion of the following entry in the minutes of its meeting of 7 December 1977 :

'Without prejudice to the powers of the Court of Auditors, the Institutions of the European Communities shall supply the Parliament and the Council with all the information necessary for the exercise of their powers of control over the general budget of the European Communities as provided for under Articles 206a and 206b of the EEC Treaty'

and recognizes the binding nature of this declaration.

15. Agrees with the Council to carry fully into the text of the revised Financial Regulation the principles agreed to in the Conciliation Committee meetings of 7 and 22 November 1977 and 7 December 1977 and set out in this Resolution;
16. Stresses, once again, that great importance attaches to a careful standardizing of the texts of the revised Financial Regulation in all the official Community languages;
17. Instructs its President to forward this resolution and the report of its committee to the Council and the Commission of the European Communities.

EXPLANATORY STATEMENTThe conciliation procedure

1. Taking account of the facts that,
 - from 1 January 1975, the budget of the European Communities was financed entirely from the Communities' own resources;
 - to implement the system, the European Parliament was endowed with increased budgetary powers; and
 - the increase in Parliament's budgetary powers must involve effective participation by it in the procedures for preparing and adopting decisions that give rise to important expenditure or revenue to be charged or credited to the budget of the European Communities,
 by joint declaration¹ of the Parliament, the Council and the Commission of 4 March 1975, a conciliation procedure was instituted.

2. Recourse to this conciliation procedure was to be had in the case of Community acts of general application which have appreciable financial implications and of which the adoption is not required by virtue of acts already in existence. The conciliation was to take place in a "conciliation committee" consisting of members of the Council and representatives of the European Parliament. The objective was to seek an agreement between the two parties.

3. For two years and eight months after the procedure was provided for, it was not put into operation. The first occasion on which the arrangement was tested was when the Financial Regulation was considered at the meetings on 7 and 22 November and 7 December 1977.

The Financial Regulation

4. The Financial Regulation, applicable to the budget of the European Communities and now in force, became operable on 25 April 1973². With the passage of time, it became evident that certain provisions needed to be revised. As well, the approval of the Treaty of 22 July 1975, with its enhancing of the role and responsibilities of the European Parliament, called for certain revisions.

¹ OJ C 89, 22.4.1975, p. 1

² OJ L 116, 1.5.1973, Vol. 16

5. On 19 May 1976, the Commission, following a request from Parliament, submitted a proposed series of amendments¹ to the Financial Regulation. This proposal was considered by the Committee on Budgets at no fewer than six meetings. The Committee's amendments and report² were approved by Parliament on 14 December 1976³. On 10 March 1977, the Commission submitted to the Council and Parliament a revised proposal⁴ which took account of Parliament's report and accepted 36 of the 42 amendments put forward. On 17 May 1977, the Council transmitted to Parliament its "common position"⁵ on the Commission's amended proposal.

Parliament's reaction to the "common position"

6. The reaction of the Committee on Budgets to the "common position" was one of keen disappointment. It appeared that the amendments accepted were very minor in character and that, in several cases, the package acceptable to Council seemed to fall short of the provisions that would be needed to satisfy the terms of the Treaty on 22 July 1975. The situation was summarised by the Committee on Budgets in two texts: one of which identified the key issues⁶ and the other compared the texts on an article by article basis so as to highlight the areas where the texts of Parliament and the Council differed.⁷
7. Following are the key issues on which there was a major difference between the position of the two institutions that constitute the budgetary authority:
- nomenclature
 - commitment authorizations
 - borrowing and lending
 - transfers
 - EUA
 - research and investment amendments
 - control aspects
 - carry forwards
 - remarks column
 - Article 107
 - Article 113 (associated with the issue of transfers)
 - transmission of the Preliminary Draft Budget to Parliament for information purposes.

¹ Docs 166/76, 360/76

² Doc. 469/76

³ O.J. No. C6, 10.1.1976, Vol. 20

⁴ Com (77) 59 fin.

⁵ (R/1058/1/77) fin 273 rev.1

⁶ PE 49.182

⁷ PE 49.379 corr.

8. In view of this wide divergence of positions on a text of fundamental importance, recourse to the conciliation procedure was inevitable. To alleviate the pressure on the time available to the conciliation committee, the Committee on Budgets¹ authorised the rapporteur on the Financial Regulation to resolve a number of minor points with representatives of the Council.
9. At a series of meetings with officials of the Council, the rapporteur resolved a score of different issues that were regarded by the Committee on Budgets as being of lesser moment. Of these issues, all save three were resolved satisfactorily. The three issues brought to conciliation were:
- the substitution by the Council of "or" for "and" in Parliament's draft Article 12 (7) concerning supplementary budgets;
 - the words added by the Council to Article 40 (2) that might have implications for the Commission's role in regard to implementing the budget;² and
 - points regarding the Euratom part of the Financial Regulation.

The conciliation committee Meeting of 7 November 1977

10. Parliament's delegation, which met the Council in the initial meeting of the conciliation committee on 7 November 1977, consisted of the following:
- Mr SPENALE, Vice-Chairman of the European Parliament;
 - Mr LANGE, Chairman of the Committee on Budgets;
 - Mr AIGNER, Vice-Chairman of the Committee on Budgets;
 - Mr COINTAT, Vice-Chairman of the Committee on Budgets;
 - Mr SHAW, Rapporteur of the Committee on Budgets;
 - Mr SPINELLI, Member of the Committee on Budgets.

Outcome of the discussions of 7 November 1977

11. The Council members in the Committee sought to discuss the implications of Article 203 for commitments, at the outset. The representatives of Parliament insisted that the purpose of the meeting was to consider the Financial Regulation and that, therefore, this discussion should come first. This was agreed. However, it was made clear that the Council's views on Parliament's amendments to the Financial Regulation were closely linked to an agreement on the application of Article 203. In the ensuing discussions, Council gave its views, subject to such an agreement being reached.

¹At its meeting of 8 June 1977

²This is to be looked at in the framework of a future Conciliation Committee meeting on implementation problems.

Nomenclature

12. After a detailed examination, the conciliation committee agreed to accept the text approved by Parliament in regard to nomenclature; thus, the nomenclature should be changed in the framework of the budgetary procedure.

Commitments

13. The conciliation committee favoured Parliament's text on commitments, subject to the re-introduction of the term "commitment appropriations" instead of "commitment authorisations" and certain other minor textual changes; thus, commitments will be decided in the framework of the budgetary procedure.

Borrowing & lending

14. Broad general agreement was reached on this issue. It was agreed that there should be set out in the preliminary draft budget "a detailed statement on the borrowings and loans policy" and that a document showing all the borrowing and lending operations referred to in Article 16 (3) shall be annexed to the budget. It was the consensus view that the time was not yet ripe to go further with this, at the moment, but it was agreed that the question merited further discussion in the framework of a future conciliation committee meeting on the subject of the problems related to the implementation of the budget.

Transfers

15. It was pointed out by the rapporteur that Parliament should have the same rights and responsibilities in connection with transfers as it has in connection with the original budget entries. It would be inadmissible that, by way of transfer decided by the Council without the full participation of Parliament, the budget could be substantially modified and in consequence, that the budgetary role of Parliament could be undermined.

The present situation is outdated because of developments in recent years and, in particular, because of the provisions in the Treaty of 22 July 1975 which has now been ratified.

16. The Council members gave the impression that they accepted the reasonableness of this view and indicated that they would endorse an amendment to Article 21 that would be acceptable to Parliament. The rapporteur emphasized that, for Parliament, this was a key issue.

EUA

17. Parliament's delegation agreed, in advance of the meeting, that, in view of certain impending developments, it was not necessary to take up the question of the EUA at the initial conciliation meeting.

Research & investment amendments

18. In this sphere, the rapporteur cited three issues that gave rise to concern for Parliament. These are:
- in regard to the tranche, there is need for flexibility; appropriations should be decided within the budgetary procedure and not by way of regulation;
 - the need to be able to amend the nomenclature in the framework of the budgetary procedure; and
 - the seemingly cumbersome presentation which leads to the use of commitments and payments entries in regard to staff.

It was agreed that the Commission of the European Communities should look at this area, as a matter of urgency, so as to find workable solutions as early as possible.

Control aspects

19. It was agreed that further action in regard to this area would be taken in the light of an opinion from the European Court of Auditors. It was recognised that the unamended Articles of the Financial Regulation would be operable only in so far as they were not superseded by the provisions of the Treaty of 22 July 1975.

Carry forwards

20. The rapporteur pointed out that the worries that had always pre-occupied Parliament in this field would be largely resolved
- (i) by the provision of proper rules for the control of transfers and,
 - (ii) provided that the carry forward was on the budgetary line.
- This latter point should be made clear in the text in order to conform with the important principles already enunciated in regard to transfers.

Remarks column

21. This point was reserved for later clarification within the Council in so far as remarks in general were concerned. When agreeing to provisions for commitments, it was accepted that the amounts entered in the remarks column as commitment appropriations for the budget of the current year shall be binding for that year.

Article 107 - transfers within EAGGF

22. The conciliation committee agreed to the acceptance of the principle enunciated by Parliament as to the need to consult the budgetary authority, in certain cases, regarding EAGGF advances. It was agreed

to include the following observation by the rapporteur in the minutes of the meeting:

"While respecting the rights of the Commission in regard to the implementation of the budget, Parliament considers that there should be a possibility for the Commission to refer - before final decisions are taken - to the European Parliament for its Opinion, instances where measures under consideration were of a nature which would probably result in the appropriations under a particular chapter being exceeded substantially."

23. This was a very unusual compromise, particularly as the Commission had agreed to spell out this point in the new Financial Regulation. However, since the Council and the Commission have now publicly stated their acceptance of this principle, and in furtherance of the general conciliation, the compromise was agreed.

Informing the European Parliament

24. As regards the provision of information to the European Parliament on the budget, the conciliation committee fully accepted Parliament's amendments to Articles 11 and 12.

Supplementary budgets

25. The conciliation committee agreed to change the word "and" to read "or" in the following passage in Article 12 (7) as amended by Parliament:

"In the event of unavoidable, exceptional and unforeseen circumstances arising"

Commitment appropriations

26. The consensus view of the conciliation committee was that payments appropriations and commitment appropriations should be kept separate throughout the entire budgetary procedure. It was also agreed that commitment appropriations could be subject to a maximum rate separate from and parallel to that which applies to non-compulsory expenditure under Article 203. Parliament's delegation was prepared to accept this consensus view since it enabled progress to be made on so many points that the overall result was felt to be overwhelmingly favourable to the budgetary authority.

The agreement was set out as follows in the joint statement made by the European Parliament, the Council and the Commission: 'It was agreed that the provisions of Article 203 would apply separately to appropriations for commitment and appropriations for payment'.

The conciliation committee meeting of 22 November 1977

27. The conciliation committee held its second meeting on 22 November 1977. Parliament's delegation consisted of the following:

- Mr COLOMBO, President of the European Parliament;
- Mr SPENALE, Vice-President of the European Parliament;
- Mr LANGE, Chairman of the Committee on Budgets;
- Mr AIGNER, Vice-Chairman of the Committee on Budgets;
- Mr BANGEMANN, Vice-Chairman of the Committee on Budgets;
- Mr COINTAT, Vice-Chairman of the Committee on Budgets;
- Mr SHAW, Rapporteur of the Committee on Budgets;
- Lord BRUCE of DONINGTON, Member of the Committee on Budgets;
- Mr SPINELLI, Member of the Committee on Budgets.

Approval of the decisions of the meeting of 7 November 1977

28. The committee approved the decisions of the meeting of 7 November 1977 as reflected in R/2819/77 (fin. 730). It then considered, in depth, the four issues still outstanding:

- transfers;
- remarks;
- research and investment; and
- control aspects.

Agreement on transfers

29. As indicated at paragraphs 15 and 16 above, Parliament's delegation attached great importance to the finding of an equitable solution to the matter of control of transfers within the budget. The agreement reached on 22 November could be summarised broadly as follows:

- the European Parliament will have the last word, after consulting the Council, in regard to transfers concerning non-compulsory expenditure;
- where transfers of compulsory expenditure are concerned, the European Parliament will be consulted but the Council will have the final say;
- where transfers involve compulsory expenditure and non-compulsory expenditure, the lower amount approved shall be transferable should Parliament and the Council suggest different sums;

- the Institutions constituting the budgetary authority will have six weeks in which to act;
- the date from which the six weeks' delay runs is the date on which the proposal for transfer has been received in all the official languages;
- Parliament and the Council may make transfers within their own sections of the budget;
- the Commission may transfer appropriations from one chapter to another within the Titles relating to staff expenditure and administrative expenditure in its own section. It shall inform the budgetary authority two weeks before making such transfers.

Agreement on remarks

30. The conciliation committee agreed, after a lengthy and arduous deliberation, that the budget shall show appropriate remarks on each sub-division¹. The Council is to enter in its minutes a statement to the effect that, while respecting the existing dispositions and competences of the Institutions, the remarks may include limiting conditions governing the execution of the expenditure as authorised by the heading of the Article or Item in question.

It was further agreed that, should there be a difficulty as regards the interpretation of this Article, efforts would be made to find a mutually satisfactory solution by way of discussions or conciliation.

Decision on the research and investment part

31. It was decided to take an interim decision on this part of the Financial Regulation. However, because the Commission has promised to provide a further report on simplification and because Parliament's delegation was not wholly satisfied with the Council position in regard to the tranche and nomenclature, this subject may be returned to at a later conciliation meeting.

¹The position in regard to remarks on commitments is set out at paragraph 21 above.

The control part

32. The conciliation committee discussed the amendments in regard to the control part of the Financial Regulation which were set out in R/2848 (fin. 741) Add. 1. It was agreed that the control part would be looked at further, in the course of the year ahead. This further examination will take place in the light of a full opinion from the Court of Auditors, furnished in accordance with Article 18 of the Treaty of 22 July 1975.

Meeting of 7 December 1977

33. On 7 December 1977, the conciliation committee gave final consideration to the questions still outstanding in regard to the Financial Regulation.

It was noted that the budget 1978 will be expressed in terms of ECU and that the revised Financial Regulation will reflect this.

Further, agreement on the text of the own resources part of the Financial Regulation was recorded.

Finally, the text proposed for Article 92a by the Parliament was discussed. It was agreed that the following text should be recorded in the minutes of the meeting:

'Without prejudice to the powers of the Court of Auditors, the Institutions of the European Communities shall supply the Parliament and the Council with all the information necessary for the exercise of their powers of control over the general budget of the European Communities as provided for under Articles 206a and 206b of the EEC Treaty'.

It was agreed that this entry in the minutes would have a binding effect.

Further meeting

34. It was suggested that, to solve certain unresolved issues, a further meeting of the conciliation committee to consider matters linked to the implementation of the budget appeared to be necessary. Such a meeting should take place early in 1978.

