

COMMISSION OF THE

EUROPEAN COMMUNITIES

COM(88) 148 final

Brussels, 18 March 1988

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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(presented by the Commission)



**EXPLANATORY MEMORANDUM**

**SUBJECT** : Proposal for the amendment of the Financial Regulation of 21 December 1977 to give effect to the conclusions of the European Council of 11-13 February 1988.

Following its communications COM(87) 100 of 15 February 1987 and (COM(87) 101 of 28 February 1987 - outlining the reorganization of the Community's Financing system - the Commission sent the authorities concerned a series of specific proposals on the various aspects requiring substantive reform.

These specific proposals included COM(87) 400 final of 24 July 1987 setting out the amendments to the Financial Regulation designed in particular to reorganize and tighten up the rules of budget management.

The European Council of 11-13 February 1988 endorsed by and large the objectives set by the Commission. As regards the Financial Regulation in particular, the European Council stated in its conclusions that the provisions relating to the following aspects needed to be revised as a matter of priority.

- I) strengthening of the principle of annuality, by revision of the arrangements governing carryovers and the conditions to be satisfied for certain appropriations released from commitment to be made available again,
- II) conditions for financing the EAGGF Guarantee Section, notably by maintaining force the temporary arrangements already adopted<sup>(1)</sup> subject to an adjustment of the period of deferment of advances (two and a half months instead of two months), and by establishing a realistic timetable for the clearance of accounts,
- III) recognition of the principle that a "negative reserve" may be entered when the budget is established.

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(1) Regulation No 3183/87 of 19.10.1987

In order to give effect to the conclusions of the European Council the Commission therefore presents the specific proposals below.

It would point out, as regards procedure, that it bases these proposals on the text of the Financial Regulation of 21 December 1977 as currently in force and that it is hereby amending any parts of its earlier proposals which are not compatible with the provisions proposed below.

The Commission feels that in view of their priority nature, these proposals ought to be acted upon immediately.

#### **1) STRENGTHENING THE PRINCIPLE OF ANNUALITY**

On this point the Commission is repeating the proposal it made in COM(87) 400 final of 24 July 1987. The same idea was expressed in the conclusions of the European Council and the relevant arrangements were largely endorsed by Parliament and the Court of Auditors in their opinions on the proposal.

However, the Commission is now adding to its initial proposal appropriate "technical criteria" - in line with the conclusions of the European Council - which define more closely the conditions of admissibility, for special and specific reasons, of certain carryovers and the conditions to be satisfied for certain appropriations released from commitment to be made available again.

For this purpose Articles 1, 6, 73 and 88 of the Financial Regulation need to be revised. It should be noted on this point that in accordance with the proposal already presented by the Commission (COM(87) 458 final of 30.9.1987) in the area of research appropriations too, the carryover arrangements will be tightened up appreciably in order to achieve the stricter discipline required in the management of appropriations, although a certain degree of flexibility (see Article 88) will be required for the reasons and constraints specific to this area.

It is of course clear that the amendment proposed here to Article 88 is the only one which, in the present context and for the reasons given, affects the area of research appropriations ; hence all the special provisions - Articles 86 to 94 of the Financial Regulation - remain applicable, notably those concerning work financed by outside bodies (without prejudice to the changes which may be made in this area in the general revision of the Financial Regulation) <sup>(1)</sup>.

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(1) See conclusions of the European Council : SN/461/1/88 of 19 February 1988, page 11, paragraph 18, last subparagraph.

## **II. AMENDMENT OF THE SPECIAL PROVISIONS APPLICABLE TO THE EAGGF GARANTEE SECTION**

### **1) Adjustment of the financing arrangements**

The Commission proposed a temporary adjustment of the EAGGF Guarantee Section financing arrangements to deal with the budget situation in 1987 and 1988. This proposal <sup>(1)</sup> - which amounted in practice to the deferment of the entry of advances in the accounts - has already been adopted by the Council (Regulation No 3183/87 of 19 October 1987, amending Regulation No 729/70 : the corresponding amendment of the Financial Regulation is in the process of being adopted).

It should now be noted that the European Council agreed :

- to continue with the application of this "switch" in the EAGGF Guarantee Section financing arrangements,
- to extend the period of deferment from the initial two months to two and a half months.

The appropriate changes must accordingly be made to the rules. As regards the Financial Regulation, Article 98 is amended. The Commission is proposing in parallel the appropriate amendments to Regulation No 3183/87 of 19 October 1987.

Under the new financing system - where advances are deferred in relation to the expenditure already effected by the Member States - it will be possible to shorten the "additional period" from the three months currently allowed (closure at 31 March of year n+1) to one month (closure in future at 31 January of year N+1).

### **2) Provision of a realistic timetable for the clearance of accounts**

Prompted by its own experience and the comments of Parliament and the Court of Auditors, the Commission <sup>(2)</sup> in its proposed general revision of the Financial Regulation made good a deficiency in the existing text and set a realistic and binding timetable for the clearance of the EAGGF Guarantee Section accounts. This involved expanding Article 99.

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(1) COM(87) 365 final of 10.7.1987 (amending Regulation No 729/70) ;  
COM(87) 511 final of 19.10.1987 (amending the Financial Regulation)

(2) COM(84) 123 final of 9.3.1984

This Commission proposal was confirmed by COM(87) 400 final of 24 July 1987 and matched by a proposal<sup>(1)</sup> for harmonizing the basic provisions in Regulation No 129/70 .

The European Council agreed that priority needed to be assigned, in the general revision of the Financial Regulation, to the provisions concerning the clearance of the EAGGF Guarantee Section accounts, in view of the fundamental financial importance of this operation, which is, moreover, very closely tied up with the need to improve budget management.

The Commission is therefore repeating the proposal in question, but at the same time it feels that the time-limits initially proposed should be tightened a little. Article 99 of the Financial Regulation needs to be amended accordingly.

### **III. POSSIBILITY OF ENTERING A "NEGATIVE RESERVE"**

The entry of a negative reserve can be justified on the following grounds :

#### **a) "Financial" reason**

It has been shown statistically from the way in which recent years' budgets have been established and from the final outturn figures that generally speaking certain discrepancies between total appropriations authorized and total appropriations finally used are objectively unavoidable. In other words the overall outturn figures reveal ultimately that amounts remain unspent under a number of headings (inevitable differences between amounts authorized and outturn).

#### **b) Procedural reason**

The course of the budget procedure in practice and the frequently complex and delicate final phase of the negotiations between the two arms of the budgetary authority have demonstrated how useful it is to be able to enter a negative reserve as a way of bringing the procedure to a close.

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(1) cf. COM(87) 212 final of 30.4.1987

It is accordingly proposed, in line with the conclusions of the Euyropean Council, that :

- the possibility of entering a "negative reserve" be provided for in the rules ;
- the maximum amount be limited to 200 million ECU, in order not to undermine the fundamental objective of the budget, which is to match forecasts with the expenditure and revenue authorized.

The Commission therefore proposes that a new provision be entered in Article 15.

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In order to help the authorities concerned in their examination of this proposal, it is perhaps useful to specify that as regards procedure and substance the proposal is made up of the following :

- 1) Points for which the substantive proposal has already been presented to the authorities concerned
  - a) Annuality
    - general arrangements : COM(87) 400 of 24.7.1987
    - RDT arrangements : COM(87) 458 of 30.9.1987
  - b) EAGGF Guarantee Section
    - deferment of advances (two month) : COM(87) 511 of 19.10.1987<sup>2</sup>
    - clearance of accounts : COM(84) 123 of 9.3.1984.
- 2) New points presented for the first time in this proposal
  - a) Annuality : addition of "technical criteria"
  - b) EAGGF Guarantee Section : (- adjustment of deferment (two ( and a half month),  
(- shortening of "additional ( period" (from three month fo ( one month),  
(- tighter schedule for clea- ( rance of accounts,
  - c) "Negative reserve" : an entirely new concept.

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(1) Research and technological development

(2) The decision on the substance, for the temporary arrangement, has already been taken (Regulation No 3183/87 of 19.10.1987)

It is further pointed out that once the Council has taken the new "own resources" decision and passed the appropriate implementing regulations, an adjustment will be necessary to certain articles<sup>(1)</sup> of the Financial Regulation, mainly concerned with wording, in order to update the corresponding references. This updating will be made later during the general revision of the Financial Regulation to be undertaken in accordance with the conclusions of the European Council.

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The Commission would accordingly ask the Council to consult Parliament and the Court of Auditors on this entire proposal. Moreover, in accordance with the objective endorsed by the European Council, the Commission would ask all the institutions concerned to attach the highest priority to dealing with this proposal.

In the light of the Council's planned target - adoption of the specific amendments to the Financial Regulation by 31 May - the Commission has set out in the Annex suggested dates for the various stages of the procedure which will make it possible to attain the objectives agreed by the European Council.

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(1) e.g. Articles 3, 5, 26, 27, 28, 30

SUGGESTED DATES FOR THE  
VARIOUS STAGES OF THE PROCEDURE

TRANSMISSION OF THE PROPOSAL TO THE COUNCIL	around 18 March
OPINION OF THE COURT OF AUDITORS	by 5 April
OPINION OF PARLIAMENT	part-session from 11 to 15 April
COMMON POSITION OF COUNCIL	by 6 May
CONCILIATION WITH PARLIAMENT	week of 16 to 20 May *
ADOPTION OF AMENDED FINANCIAL REGULATION	not later than 31 May.

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\* May part-session of Parliament

Proposal for a  
COUNCIL REGULATION (ECSC, EEC, Euratom)  
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THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78 h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission, (1)

Having regard to the opinion of the European Parliament, (2)

Having regard to the opinion of the Court of Auditors, (3),

Whereas the conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission (4) took place in a Conciliation Committee;

Whereas the Financial Regulation of 21 December 1977 (5), as last amended by Regulation (ECSC, EEC, Euratom) ... (6) must be amended to give effect to the conclusions of the Brussels European Council of 11-13 February 1988 concerning stricter annual management of appropriations, the financing arrangements for the common agricultural policy and the possibility of entering a "negative reserve" when the budget is established;

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(1)

(2)

(3)

(4) OJ No C 89, 22.4.1975, p. 1.

(5) OJ No L 356, 31.12.1977, p. 1.

(6) OJ No L .....

## II

*(Preparatory Acts)*

## COMMISSION

**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***COM(88) 148 final**(Submitted by the Commission to the Council on 21 March 1988)**(88/C 99/07)*

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament,

Having regard to the opinion of the Court of Auditors,

Whereas the conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission<sup>(1)</sup> took place in a Conciliation Committee;

Whereas the Financial Regulation of 21 December 1977<sup>(2)</sup>, as last amended by Regulation (ECSC, EEC, Euratom), must be amended to give effect to the conclusions of the Brussels European Council of 11 to 13 February 1988 concerning stricter annual management of appropriations, the financing arrangements for the common agricultural policy and the possibility of entering a 'negative reserve' when the budget is established;

Whereas, in the interests of improved budgetary management and greater transparency of appropriations, differentiated appropriations should no longer be carried over automatically; whereas, however, the Commission should be empowered to effect some carryovers on the basis of specific criteria; whereas certain appropriations

which have been released from commitment may be made available again only on the basis of specific criteria and only after a Commission decision;

Whereas the Financial Regulation must reflect the arrangements for financing the Guarantee Section of the European Agricultural Guidance and Guarantee Fund to take account of the amendments to Council Regulation (EEC) No 729/70<sup>(3)</sup>, as last amended by Regulation . . .;

Whereas an appropriate provision must be inserted to allow a negative reserve to be entered in the budget to cover the discrepancies which inevitably arise during implementation between the total appropriations authorized and the total appropriations used,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Financial Regulation of 21 December 1977 is hereby amended as follows:

1. In Article 1, the following paragraph 3a is inserted:

'3 a. 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.'

2. In Article 6, paragraph 2 is replaced by the following:

'2. In the case of budget headings where a distinction is made between commitment appropriations and payment appropriations, commitment appropriations and payment appropriations which

<sup>(1)</sup> OJ No C 89, 22. 4. 1975, p. 1.

<sup>(2)</sup> OJ No L 356, 31. 12. 1977, p. 1.

<sup>(3)</sup> OJ No L 94, 28. 4. 1970, p. 13.

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, in accordance with the following criteria:

(a) in the case of commitment appropriations:

- amounts which relate to operations for which preliminaries have been virtually completed at 31 December but for which accounting commitments have not yet been made: these amounts must in principle be committed by 31 March of the following year,
- amounts which are necessary when the Council has adopted a basic instrument towards the end of the financial year and the Commission has been unable to commit the appropriations provided for this purpose in the budget by 31 December;

(b) in the case of payment appropriations:

- amounts needed to cover existing commitments or relating to commitment appropriations carried over, when the appropriations provided for the headings concerned in the budget for the following financial year do not cover requirements: in exercising its powers to implement the budget the Commission shall, depending on management requirements, endeavour to use first the appropriations authorized for the current financial year and not use the appropriations carried over until the former are exhausted.

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

3. In Article 6, paragraph 6 is replaced by the following:

'6. 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 shall, as a rule, lapse.

However, the commitment appropriation corresponding to the amount of the commitment cancelled may, exceptionally, be made available again, in accordance with the specific criteria laid down in the implementing measures provided for in Article 106, when it is essential to carry out the programme originally planned, unless the budget for the current financial year contains funds available for this purpose.

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.

The Commission shall inform the budgetary authority of the decision taken and state the reasons for maintaining these appropriations.'

4. In Article 15, the following paragraph 4a is inserted:

'4 a. The chapter for provisional appropriations in the Commission Section may include a negative reserve limited to a maximum of 200 million ECU.

This reserve may include both appropriations for commitments and appropriations for payments.

This reserve shall be drawn upon by means of transfer in accordance with the procedure laid down in Article 21.'

5. In Article 73 (2), the final indent is replaced by the following:

'— appropriations carried over under Articles 6 and 88;'

6. In Article 73 (3), the fourth and fifth indents are replaced by the following:

'— the commitment appropriations and payment appropriations carried over under Articles 6 and 88;'

7. In Article 73 (4), the first indent is replaced by the following:

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

8. In Article 73 (4), the fifth indent is deleted.

9. In Article 88 (3), the final subparagraph is replaced by the following:

'The payment appropriations represent the upper limit of expenditure which may be paid or authorized for payment during each financial year to cover commitments entered into during the current year or earlier financial years.'

10. In Article 88, paragraph 4 is replaced by the following:

'4. The commitment and payment appropriations for this sector shall, as a rule, be carried over pursuant to Article 6 (2) of this Regulation in view of the special requirements of these activities, in order to:

- maintain the continuity of budgetary execution from one year to the next,
- safeguard the budgetary allocations which enable multiannual programme decisions to be respected.'

11. Article 98 is replaced by the following:

*'Article 98*

Expenditure shall be booked to the accounts for a financial year on the basis of the advances paid by the Commission to the Member States during that year in accordance with Article 5 of Regulation (EEC) No 729/70, provided that notification of their commitment and authorization have reached the accounting officer not later than 31 January of the following year.'

12. Article 99 is replaced by the following:

*'Article 99*

1. The object of the clearance of the accounts provided for in Article 5 (2) (b) of Regulation (EEC) No 729/70 shall be to determine the amount of expenditure effected in each Member State during the financial year in question which may be recognized as being chargeable to the EAGGF.

Not later than 1 June of the year following the financial year in question Member States shall, for the purpose of clearance of the accounts, send to the Commission summary annual accounts for the financial year ended, amending where necessary the monthly accounts. The summary accounts shall be accompanied by the appropriate reports drawn up by the competent audit and control departments and dealing with the expenditure referred to in the Articles relating to expenditure covered by the clearance.

If the accounts of a paying agency or department have not reached the Commission by 1 June, the Commission may clear the accounts of that agency or department solely on the basis of the financial

statements referred to in Article 5 (1) (a) of Regulation (EEC) No 729/70 as described by implementing measures adopted pursuant to Article 5 (3) of that Regulation.

2. On the basis of the accounts or statements mentioned in paragraph 1 and of the findings of audits of documents and on-the-spot checks under Article 9 of Regulation (EEC) No 729/70, the Commission, after consulting the Fund Committee referred to in Article 13 of that Regulation, shall clear the accounts not later than 15 September of the second year following the financial year in question.

3. The Commission shall transmit the clearance decisions to the Member States and publish them in the *Official Journal of the European Communities*.

4. The outcome of the clearance decision, i.e. any discrepancy which may exist between the total expenditure booked to the accounts for a financial year pursuant to Articles 97 and 98 and the total expenditure recognized as allowable by the Commission when clearing the accounts shall be booked, under a single article, as additional expenditure, or a reduction in expenditure.'

13. In Article 100 (1), '1 April of the following financial year' is replaced by '1 February of the following financial year'.

14. In the second subparagraph of Article 101 (1) and the first subparagraph of Article 101 (2) '31 March of the following financial year' is replaced by '31 January of the following financial year'.

*Article 2*

This Regulation shall enter into force on the third day following that of its publication in the *Official Journal of the European Communities*.

It shall apply from ... 1988.

It shall be binding in its entirety and directly applicable in all Member States.

**Amendment to the proposal for a Council Decision revising the multiannual research action programme for the European Community in the field of biotechnology <sup>(1)</sup> (1985 to 1989)**

*COM(88) 169 final*

*(Submitted by the Commission to the Council pursuant to Article 149 (3) of the EEC Treaty on 23 March 1988)*

*(88/C 99/08)*

The Commission proposal is hereby amended as follows:

Preamble unchanged

First five recitals unchanged

**Whereas any application involving the planned release of organisms created by genetic engineering must be preceded by experimental research conducted in accordance with safety rules;**

Sixth recital unchanged

**Whereas it is necessary to step up training activities and to evolve training schemes including, in particular, the organization of short intensive workshops, altogether allowing research scientists in the Member States to benefit from all the research facilities and scientific expertise in the Community, thus helping to reduce the disparities in development in the field of biotechnology between the various Member States of the European Community;**

Eighth recital unchanged

**Whereas it is necessary to step up the concertation activities carried out alongside the Community research and training effort, to improve national and Community activity in the field of biotechnology, strengthen dialogue with the trade unions, farmers' and consumers' associations, environment protection groups and their experts, and make more and better information available to the public;**

Tenth recital unchanged

**Having regard to the necessity to guarantee the participation of Spain and Portugal in the totality of activities in the programme (activities in progress and activities provided for in this revision);**

Twelfth recital unchanged

*Article 1*

The research action programme for the European Economic Community in the field of biotechnology (1985 to 1989) is hereby revised on the basis of the specifications in the Annex.

**The aims of this revision are to allow the balanced participation of Spain and Portugal in the current programme and the expansion of certain parts of the programme (bio-informatics; evaluation of the risks associated with modern biotechnology; training of researchers).**

<sup>(1)</sup> OJ No C 15, 20. 1. 1988, p. 13.