

COMMISSION OF THE EUROPEAN COMMUNITIES

COM (79) 202 final

Brussels, 23 April 1979

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

(presented by the Commission to the Council)

COM (79) 202 final

1

EXPLANATORY MEMORANDUM

I. GENERAL CONSIDERATIONS

1. Article 98 of the Financial Regulation of 21 December 1977¹ states that the expenditure financed by the Guarantee Section of the European Agricultural Guidance and Guarantee Fund "shall be taken into account for a financial year on the basis of payments made up to 31 December ... provided that their commitment and authorization have reached the accounting officer not later than 31 March of the following year". This provision, which already existed under the Financial Regulation of 25 April 1973 (Article 109)², establishes what is commonly called the "EAGGF additional period". The system takes into account the special features of the management of the EAGGF Guarantee Section appropriations, which involves the intervention of government departments and agencies (the "paying agencies" referred to in Article 4 of Regulation (EEC) No 729/70³); but it presents certain disadvantages.

The EAGGF additional period is a substantial departure from the general budgetary system of the European Communities, under which accounts are closed on 31 December on the basis of payments effected by the accounting officer not later than the following 15 January (final paragraph of Article 5 of the Financial Regulation of 21 December 1977). In practice, the existence of an additional period has the effect of postponing the actual closure of accounts until 31 March and the presentation of the revenue and expenditure account by the Commission until 1 June of the following financial year.

2. In addition, the presentation of the revenue and expenditure account rather late in the year obviously has repercussions on the various dates set out in the Financial Regulation for auditing the accounts.

This situation may run counter to certain objectives which any body of budgetary law should try to achieve, i.e. simplicity and clarity in the keeping of accounts and the speedy closure and auditing of accounts, the time factor being essential for the effectiveness and impact of the monitoring process. The experience of the Institutions during the procedure leading to the first annual report of the Court of Auditors, published at the end of January 1979⁴, has also shown that the dates in question should be arranged rescheduled, so that the parties concerned have the necessary time to fulfil their functions with all efficiency.

Abolition of the EAGGF additional period for these reasons would indeed make for more rational timing. The outcome would be longer periods both for the

¹OJ No L 356, 31 December 1977.

²OJ No L 116, 1 May 1973.

³OJ No L 94, 28 April 1970.

⁴OJ No C 313, 30 December 1978.

adoption of the annual report of the Court of Auditors and the communication by the Institutions of their replies to the comments in that report, with no concomitant extension of the period in which the Commission must draw up the revenue and expenditure account.

The two drawbacks referred to above (the existence of an additional period for entering EAGGF Guarantee Section expenditure in the accounts and the pressure of deadlines which are sometimes too tight in the rendering and auditing of accounts) could thus be eliminated simultaneously.

3. The changes to be made thus spring from the two following aims:

- more rational scheduling of the various deadlines stipulated in the Financial Regulation of 21 December 1977 for rendering and auditing the accounts;
- simultaneous abolition of the additional period for entering the expenditure of the EAGGF Guarantee Section in the accounts.

To permit a prompt decision on this proposal, the Commission has included nothing which touches on other points. It intends, in accordance with Article 107 of the Financial Regulation (which provides for a three-yearly review of the provisions of this Regulation), to incorporate in one text all the amendments of various sorts which are found to be needed. That text will, of course, take into account the suggestions already made by the Court of Auditors.

II. DETAILED EXPLANATIONS (in the order of the Articles to be amended)

1. More rational scheduling of the time-limits for the rendering and auditing of accounts

The abolition of the EAGGF additional period will have two positive effects on the timetable for rendering and auditing accounts: firstly, the time-limits can be set earlier in the year and, secondly, the periods will generally be longer. To achieve this, the following Articles of the Financial Regulation of 21 December 1977 need to be amended:

- (a) Article 6(3): In the interests of budgetary transparency and rational management of the appropriations, there should be no excessive delay in decisions on requests to carry over appropriations, to be made to the Budgetary Authority. The Commission accordingly proposes 21 February (instead of 1 May as at present) as the final date for submitting requests to carry over appropriations, as provided in Article 6(3).

- (b) Articles 73, 74 and 77: It is proposed to make 1 April the final date for drawing up the revenue and expenditure account, the analysis of financial management and the balance sheet (the current deadline is 1 June). Since the accounts for the financial year should from now on be closed on 15 January (for expenditure under the general system provided for in Article 5 of the Financial Regulation) or on 31 January (for EAGGF Guarantee Section expenditure), the Commission would in fact still have the same amount of time for drawing up these documents (1 February to 31 March instead of 1 April to 31 May). The Article 74 deadline for communication by the other Institutions of the information required for drawing up these documents should therefore be brought forward to 15 February.
- (c) Article 83(1): The time saved by eliminating the additional EAGGF period could also be applied to the deadline for the adoption by the Court of Auditors of its annual report. The Court of Auditors would also have an extra month for completing this task (1 April to 15 June instead of 1 June to 15 July). The Commission considers that this extra time would be very useful to the Court of Auditors in its work and, in general, for the efficiency and precision of the external financial controls.

2. Elimination of the additional period for entering EAGGF Guarantee Section expenditure in the accounts

- (a) The current "additional period" for the EAGGF Guarantee Section, which extends three months (from 1 January to 31 March) beyond the one-year Budget implementation period, was instituted with the object of giving time for the transfer and processing of data from the national to the Community level.

The time-lag between establishment of the data concerned by the paying agencies in the Member States and the transmission, processing, verification and entry into the accounts of that data at Community level is generally about three months - inter alia because of the constraints of the present rules (authorization of transfers by the Budgetary Authority).

If, therefore, the period for entry in the Community accounts for the EAGGF Guarantee Section currently spreads over 15 months (from 1 January of the financial year n to 31 March of the financial year $n+1$), this is simply due to the material and legislative constraints resulting from the two-tier system which characterizes and governs budgetary implementation in the EAGGF Guarantee Section - the national tier and the Community tier.

Yet the present solution, devised when the Financial Regulation of 25 April 1973 was drafted, is not the only possible way of tackling this particular situation. Its aim was to complete, by 31 March of the financial year $n+1$, the establishment, and hence the entry into the accounts, of the final data on expenditure incurred during the financial year n .

However, the Financial Regulation permits the use of another technique which, in practice, has the same results - the technique of automatic carry-overs. By this method, all expenditure (in commitments and actual payments) for which substantiating statements have been sent in, checked and entered in the accounts by 31 January of the financial year n+1, would be recorded in the course of the financial year n. In the case of expenditure for which it is not possible to complete these operations by 31 January, the following provisions would apply:

- the estimates communicated by the Member States in their most recent applications for advance payments would be charged as commitments;
- these commitments would be eligible for automatic carryovers and would be implemented, i.e. settled at Community level, during the subsequent months (February, March, etc. of the year n+1).

As implementation of carryovers in n+1 is by definition a function and an integral part of operations under the financial year n, the end result is the same as that obtained under the current system. The advantage is the valuable gain of two months for the next step, i.e. verification of the accounts. It is therefore proposed that Article 97 of the Financial Regulation of 21 December 1977 be amended to this effect.

The provisions on the clearance of the accounts are therefore amended accordingly (amendment of Article 100).

(b) With regard to expenditure for which it has not been possible to process the final substantiating statements before the closing of the financial year (31 January for the EAGGF Guarantee Section), this proposal therefore advocates that the charging as commitments should be performed on the basis of the estimates of requirements as stated by the Member States in their most recent applications for advance payments. The commitments based on these estimates would then be carried over automatically to the following financial year.

It goes without saying that the utilization of these carryovers, during the subsequent financial year will not always coincide absolutely, item by item, with the commitments based on estimated requirements and that certain adjustments will be necessary. In practice, these would be the final adjustments which at present are made in March, and they would allow a final adaptation of appropriations to requirements.

This being so, and in harmony with the object of this proposal, provision should therefore be made for these - minor - adjustments to be decided by the Commission under the same procedure as that proposed (below) for transfers made during a financial year. The proposed amendments to Article 98 take these points into consideration.

In order to keep a time-restriction on the use of appropriations carried over, it is proposed that appropriations carried over which have not been committed or charged as payments before 30 June of the financial year to which they are carried over should be cancelled under the year of origin (amendment to Article 99).

(c) The provisions of the Financial Regulation relating to decisions in respect of transfers of appropriations in the EAGGF Guarantee Section call for the following comments:

- (i) The distinction between "chapters" and "articles" does not necessarily indicate specific categories of appropriations

The structure of the nomenclature of the EAGGF Guarantee Section is the outcome of historical development. In principle, each chapter should correspond to a specific market organization.

Although generally true, this principle is not always respected. The present Chapter 73, for example, groups together several different market organizations each of which should, in theory, be the subject of an individual chapter.

Under the present rules, then, the Commission may itself decide to make transfers between, for example, the common organization of the market in hops (Article 732) and dried fodder (Article 734) but not, for instance, between Chapter 60 (cereals) and Chapter 61 (rice).

The present situation, therefore, is not strictly based on a logical approach, but rather on an approach of mere form.

- (ii) Once the estimates have been drawn up, i.e. the Budget has been adopted by the Budgetary Authority, it is implemented in the first instance by the Member States,

Initially, the Commission's role as authorizing body consists of granting advances on the basis of the Member States' estimates. These advances take the form of global commitments.

It is only later, after two to three months, when these advances have been implemented by the Member States, that the Commission is in a position to carry out the detailed charging of commitments and payments to individual items. This is done on the basis of the substantiating statements forwarded by the Member States after carrying out the requisite examinations and checks.

(iii) Expenditure in the EAGGF Guarantee Section is compulsory expenditure

Expenditure in the EAGGF Guarantee Section is by definition compulsory expenditure. Although the Commission has certain technical powers in market management, the volume of expenditure is the ineluctable result of all legislation in force and of the cyclical situation.

It has often been stressed lately that agricultural expenditure cannot be contained at the budget level: the effort to contain it must be exerted upstream, i.e. at the level of basic legislation.

These considerations imply that transfers in the EAGGF Guarantee Section are basically "transfers for regularization purposes", and not "transfers for authorization purposes".

It is not the transfer procedure which makes it possible for Member States to effect expenditure; on the contrary, its aim is to adjust the estimates of appropriations entered in the Budget to actual needs. Thus the requirements which must be met are first established, and later the appropriations are adjusted as needed.

The present provisions whereby the Council formally approves such transfers do not correspond to reality. They make for unnecessary procedural complications and their only effect is to increase delays.

It should also be noted that the Commission systematically consults the EAGGF Committee before itself deciding on transfers between articles and before proposing transfers between chapters to the Council. This procedure enables the representatives of the Member States to check that the transfers proposed meet the Member States' requirements.

The Commission therefore believes that it would be in the interests of all the institutions concerned to proceed as follows:

- (i) all transfers within the Guarantee Section to be decided upon by the Commission after consulting the EAGGF Committee;
- (ii) the Budgetary Authority to be immediately informed of these decisions (amendment to Article 101).

(d) The provisions governing food aid should be altered in the light of the new rules proposed for the EAGGF Guarantee Section. The new Articles 97(1), 97(2), 100 and 101 would then also apply to food aid (amendment to Article 102).

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

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, in the interests of greater simplicity and clarity in the keeping of accounts, it would appear appropriate to abolish the additional period for entering in the accounts expenditure under the EAGGF Guarantee Section;

Whereas the abolition of this period would permit a more rational scheduling of the time-limits governing the procedure for the rendering and auditing of the accounts;

Whereas, to this end, certain provisions of the Financial Regulation of 21 December 1977 (1) must be amended,

HAS ADOPTED THIS REGULATION:

ARTICLE 1

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

(1) O.J. No L 356, 31 December 1977, p.1.

1. The first subparagraph of Article 6(3) shall be replaced by the following:

"3. In the case of the appropriations referred to in paragraph 1(b), the Commission shall transmit to the Council and shall forward to the European Parliament, not later than 21 February, the requests to carryover appropriations, duly substantiated, made by the European Parliament, the Council, the Court of Justice, the Court of Auditors and the Commission itself."

2. The introductory paragraph of Article 73 shall be replaced by the following:

"The Commission shall draw up, not later than 1 April of the following year, a revenue and expenditure account for the Communities, which shall include the following documents classified in accordance with the budget nomenclature:" (remainder unchanged).

3. Article 74 shall be replaced by the following:

"Each Institution shall, not later than 15 February, forward to the Commission the information required for drawing up the revenue and expenditure account and the balance sheet, together with a contribution to the analysis of the financial management referred to in Article 75."

4. Article 77 shall be replaced by the following:

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

5. Article 83(1) shall be replaced by the following:

"The Court of Auditors shall transmit to the Commission and to the Institutions concerned, by 15 June at the latest, any comments which are, in its opinion, of such a nature that they should appear in the report provided for in Article 78f of the ECSC Treaty, Article 206a of the EEC Treaty and Article 180a of the Euratom Treaty. Each Institution shall address its reply to the Court of Auditors by 31 October at the latest. The replies of the Institutions other than the Commission shall be forwarded simultaneously to the Commission."

6. Article 97 shall be replaced by the following:

"1. Expenditure shall be taken into account for a financial year on the basis of payments made up to 31 December by the authorities and bodies referred to in Article 4 of Regulation (EEC) No 729/70, provided that their commitment and authorization have reached the accounting officer not later than 31 January of the following year.

"2. Expenditure effected between 1 January and 31 October by authorities and bodies under Article 4 of Regulation (EEC) No 729/70 shall be the subject of a commitment and shall also be charged as a payment by chapter, article and item, after examination of the statements transmitted by the Member States in accordance with the provisions laid down pursuant to Article 5(3) of the said Regulation, and after approval by the Financial Controller.

The commitment shall be entered into within two months following receipt of the statements transmitted by the Member States. The charging as a payment shall, in principle, be carried out within the same period, subject to subsequent provisions herein.

"3. The expenditure to be effected in November and December by authorities and bodies under Article 4 of Regulation (EEC) No 729/70 shall be the subject of a commitment on the basis of the statements of estimates transmitted by the Member States.

"4. The commitments provided for in paragraphs 2 and 3 shall be deducted from those provided for in Article 96."

7. Article 98 shall be replaced by the following:

"1. The commitments provided for in Article 97(3) shall be the subject of automatic carryovers to the following financial year.

"2. A appropriations which at the end of the year remain in the form of global commitments, pursuant to the provisions of Article 96, shall be automatically carried over so that the expenditure chargeable to the financial year of origin may be taken into account under the articles and items in question.

"3. The difference between the total expenditure actually disbursed during a financial year by the authorities and bodies under Article 4 of Regulation (EEC) No 729/79 and the total commitments and chargings as payments effected under Article 97(2) and (3) for the same financial year shall be charged against the appropriations carried over under paragraphs 1 and 2.

"4. The charging provided for in paragraph 3 shall be subject to an examination of the statements transmitted by the Member States in accordance with the provisions laid down pursuant to Article 5(3) of Regulation (EEC) No 729/70, and after approval by the Financial Controller.

"5. The Commission may be authorized, where the need arises, and in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70, to make those transfers which prove necessary from the automatic carryovers provided for in paragraph 1."

8. Article 99 shall be replaced by the following:

"1. Appropriations carried over under paragraphs 1 and 2 of Article 98 and which have not been the subject of a commitment or been charged as a payment not later than 30 June of the financial year to which they were carried over shall be cancelled in respect of the original financial year.

"2. A global provisional commitment corresponding to the appropriations cancelled pursuant to paragraph 1 shall be constituted from the appropriations of the current financial year."

9. Article 100 shall be replaced by the following:

"1. Articles 97 and 98 shall apply without prejudice to the clearance of accounts provided for in Article 5(2)(b) of Regulation (EEC) No 729/70.

"2. Any difference which may exist between the total expenditure charged to the accounts for a financial year pursuant to Articles 97 and 98 and the total expenditure established by the Commission when clearing the accounts as provided for in Article 5(2)(b) of Regulation (EEC) No 729/70 shall be charged, under a single article, as over- or under-expenditure to the financial year in which the accounts are cleared."

10. Article 101 shall be replaced by the following:

"1. Appropriations made available in one chapter of expenditure may not be allocated to another chapter of expenditure.

"2. Transfers between chapters and transfers within a chapter shall be made by decision of the Commission taken not later than 31 January in accordance with the procedure provided for in Article 13 of Regulation (EEC) No 729/70.

"3. The Commission shall inform the Budgetary Authority of such transfers."

11. In Article 102,

(a) the third paragraph shall be replaced by the following:

"Article 97(1) and (2) and Articles 100 and 101 shall apply as regards the charging as payment of expenditure effected by the Member States using the funds advanced by the Commission, and as regards the clearance of accounts."

(b) the final paragraph shall be deleted.

ARTICLE 2

This Regulation shall enter into force on 1 June 1979.

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