

European Communities

EUROPEAN PARLIAMENT

Working Documents

1974-1975

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DOCUMENT 338/74

Report

drawn up on behalf of the Committee on Budgets

on the draft regulation of the Commission of the European Communities
introducing procedures for implementing certain provisions of the Financial
Regulation of 25 April 1973 (Doc. 151/74)

Rapporteur: Miss Colette FLESCH

PE 37.852/fin.

By letter of 12 June 1974 the Commission of the European Communities forwarded to the European Parliament for its opinion a draft regulation introducing procedures for implementing certain provisions of the financial regulation of 25 April 1973.

This proposal was sent on to the Committee on Budgets on 16 June 1974.

The Committee on Budgets appointed Miss Flesch rapporteur on 12 September 1974.

It considered the draft regulation at its meeting of 4 and 5 November 1974 and at the same meeting unanimously adopted Miss Flesch's draft report.

The following were present: Mr Spénale, chairman; Miss Flesch, rapporteur; Mr Berthoin, Mr Cointat (deputizing for Mr de la Malène), Mr Concas, Mr Della Briotta (deputizing for Mr Lautenschlager), Mr Delmotte (deputizing for Mr Schmidt), Mr Gerlach, Mr Hansen, Mr Lagorce, Lord Lothian, Mr Notenboom, Mr Pêtre, Mr Shaw and Mr Vernaschi.

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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 draft regulation of the Commission of the European Communities introducing procedures for implementing certain provisions of the Financial Regulation of 25 April 1973

The European Parliament,

- having regard to the draft regulation of the Commission of the European Communities (COM(74) 705 fin.),
 - having been consulted by the Commission of the European Communities pursuant to Article 118 of the financial regulation of 25 April 1973 (Doc. 151/74),
 - having regard to the report of the Committee on Budgets (Doc. 338/74),
1. Welcomes the submission of this draft regulation, which takes account of some provisions of the financial regulation that call for the introduction of implementing procedures;
 2. Approves the draft regulation;
 3. Requests the Commission to incorporate the following amendments into its draft, pursuant to Article 149, second paragraph, of the Treaty establishing the EEC;
 4. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

PROPOSAL

concerning a draft regulation of the Commission introducing procedures for implementing certain provisions of the Financial Regulation of 25 April 1973

Preamble and recitals - unchanged

TITLE I: DELEGATIONS (Article 18 of the Financial Regulation)

Article 1

The acts by which powers shall be delegated pursuant to the provisions of Article 18 of the Financial Regulation shall contain nominations of those members of staff of the Institution authorized to sign instead of the delegator.

Article 1

unchanged

Such acts shall contain a reference to the provisions of the rules of procedure referred to in Article 18, third paragraph, of the Financial Regulation, laying down the conditions on which powers may be delegated.

Articles 2 to 4 unchanged

TITLE II: RULES APPLICABLE TO THE FINANCIAL CONTROLLER
AND TO THE ASSISTANT FINANCIAL CONTROLLERS
(Article 19 of the Financial Regulation)

Article 5 unchanged

¹ For the complete text, see COM(74) 705 fin.

Article 6

The Institution may appoint one or more assistant financial controllers. The latter shall report to the Financial Controller, who shall decide on the powers to be delegated to them. They shall bear the responsibility for the approvals granted by them in pursuance of the powers delegated to them or the instructions which they have received.

Articles 7 and 8 unchanged

Article 9

All decisions relating to the delegation and subdelegation of powers by the Financial Controller or the assistant financial controllers shall comply with the provisions of Articles 1 to 3.

Article 10

In carrying out his checking, the Financial Controller shall be completely independent and shall be responsible only to the Institution. He may not receive any instructions as regards the execution of the duties assigned to him pursuant to the provisions of the Financial Regulation in virtue of his appointment.

Subject to the provisions of Article 6, the provisions of the preceding subparagraph shall also apply to the assistant financial controllers.

Article 11 unchanged

Article 6

The Institution may appoint one or more assistant financial controllers. The latter shall report to the Financial Controller, who shall decide on the powers to be ~~delegated~~ delegated to them. They shall bear the responsibility for the approvals granted by them in pursuance of such powers.

Article 9

All decisions relating to the delegation and subdelegation of powers by the Financial Controller or the assistant financial controllers shall comply with the provisions of Articles 1 to 3 above.

Article 10

unchanged

These provisions shall also apply to the assistant financial controllers within the limits of the powers delegated by their immediate superior.

Article 12

The Financial Controller and the assistant financial controllers shall have access to all supporting documents and to all other documents relating to the expenditure and revenue operations which require to be checked. They may carry out on-the-spot checks.

Article 12

The Financial Controller and the assistant financial controllers shall have access to all accounts, supporting documents and other documents relating to the expenditure and revenue allocated to the budget of the Communities. They may carry out on-the-spot checks.

Articles 13 and 14 unchanged

TITLE III: REGISTRATION OF COLLECTION ORDERS

(Article 23 of the Financial Regulation)

Article 15

A collection order must be drawn up for every document substantiating a debt and must be submitted to the Financial Controller for approval and to the accounting officer for registration before being communicated to the debtor.

Article 15

A collection order must be drawn up for every document substantiating a debt chargeable to the budget of the Communities and must be submitted to the Financial Controller for approval and to the accounting officer for registration before being communicated to the debtor.

Article 16

If a document or decision giving rise to a debt cannot be accompanied by a substantiation of the debt because it is impossible to determine the amount immediately, that document or decision shall be submitted to the Financial Controller for prior approval and communicated to the accounting officer.

Article 16

If a document or decision giving rise to a debt chargeable to the budget of the Communities cannot be accompanied by a substantiation of the debt because it is impossible to determine the amount immediately, that document or decision shall be submitted to the Financial Controller for prior approval and communicated to the accounting officer.

Article 17

The authorizing officer and the Financial Controller must be informed as soon as possible of each payment received.

Article 17

The authorizing officer and the Financial Controller must be informed as soon as possible of each payment for which no collection order has been drawn up pursuant to Article 15 above.

Articles 18 and 19 unchanged

TITLE IV: COMMITMENT OF EXPENDITURE

(Article 40 of the Financial Regulation)

Articles 20 and 21 unchanged

Article 22

If a decision of principle issued by the Institution precedes a decision on expenditure, the draft decision of a principle shall be transmitted to the Financial Controller for prior approval and, following a decision by the competent authority, the amount of appropriations corresponding to the expenditure to be incurred shall be blocked.

Article 22

If a prior decision of principle on the advisability of expenditure is to be taken by the Institution, the draft decision shall in the first instance be submitted to the Financial Controller for approval. Following adoption of the draft by the Institution, the amount of appropriations corresponding to the expenditure to be incurred shall be blocked.

When the Financial Controller has given his approval and a commitment is made for expenditure, the appropriations blocked shall be released to cover the corresponding commitment.

unchanged

The draft commitment document, drawn up in accordance with the decision on expenditure, shall be the subject of a proposal for a commitment of expenditure which is submitted to the Financial Controller for prior approval and subsequently registered as appropriations committed and deducted from the appropriations previously blocked.

Article 23

Provisional commitments, within the meaning of Article 40(1) of the Financial Regulation, are strictly limited to current expenditure. Individual commitments covered by such provisional commitments do not require to be submitted separately for approval by the Financial Controller.

unchanged

Article 23

Within the framework of the measures for administering such appropriations, referred to in Article 4 above, each Institution shall draw up a list of budget items for which there may be provisional commitments. The list shall state for each authorizing officer, the intervals at which such provisional commitments may be renewed, the maximum amount of each, and the maximum amount of each individual commitment they may cover. The list shall be forwarded to the authorizing officers, the accounting officer and the Financial Controller. The authorizing officers shall refer to it when delegating powers to their assistants.

In the case of provisional commitments, the authorizing officer is bound to check, on his own responsibility, that the individual commitments do not exceed the provisional commitment by which they are covered.

unchanged

The existence of such provisional commitments does not imply that appropriations can be carried forward automatically in the sense of Article 6 of the Financial Regulation, unless they correspond at the end of the financial year to financial commitments actually entered into before the deadlines laid down in the Financial Regulations.

Article 24

If in the case of certain measures which may involve expenditure, no exact figures can be given for the expenditure when the relevant proposal for a commitment is presented to the Financial Controller and communicated to the accounting officer, the authorizing officer must estimate the expected expenditure.

Article 25

All proposals for commitments of expenditure must be submitted to the Financial Controller sufficiently early to enable any comments which he might wish to make to be taken into consideration, especially in such cases where the commitments to be entered into have to be negotiated with the contracting parties or have to be submitted to consultative bodies.

Article 26 unchanged

TITLE V: REGISTRATION OF PROPOSALS FOR
COMMITMENT OF EXPENDITURE AFTER
APPROVAL BY THE FINANCIAL CONTROLLER

(Article 41 of the Financial Regulation)

Article 27 unchanged

Article 28

The central accounts department must be so organized as to guarantee that the Financial Controller is able to check that the commitments and payments have been registered accurately so that he can, at any given moment, ascertain the extent to which the appropriations have been utilized and inform the authorizing officers of his findings.

Article 24

If in the case of certain measures which may involve expenditure, no exact figures can be given for the expenditure when the relevant proposal for a commitment is presented to the Financial Controller and communicated to the accounting officer, the authorizing officer must estimate the expected expenditure and state, in his proposal for a commitment, the factor on which his estimate is based.

Article 25

All proposals for commitments of expenditure must be submitted to the Financial Controller sufficiently early to enable any comments he might wish to make to be taken into consideration.

Article 28

The central accounts department must be so organized as to be able to inform the authorizing officers and the Financial Controller at any given moment of the extent to which appropriations have been utilized, within the meaning of Article 27 above.

TITLE VI: APPROVAL OF PROPOSALS FOR
COMMITMENT OF EXPENDITURE

(Article 42 of the Financial Regulation)

Articles 29, 30 and 31 unchanged

Article 32

If, pursuant to Article 43 of the Financial Regulation, the higher authority of the Institution overrides the Financial Controller's refusal to give his approval, the decision shall be transmitted to the authorizing officer who shall send the proposal for a commitment of expenditure together with that decision to the Financial Controller. The proposal for commitment, together with the decision to override, shall be registered in accordance with the provisions of Article 41 of the Financial Regulation.

Article 32

If, pursuant to Article 43 of the Financial Regulation, the higher authority of the Institution overrides the Financial Controller's refusal to give his approval, the decision shall be transmitted to the authorizing officer who shall refer the proposal for a commitment of expenditure together with that decision back to the Financial Controller. The proposal for commitment, together with the decision to override, shall be registered in accordance with the provisions of Article 41 of the Financial Regulation.

Article 33 unchanged

TITLE VII: SUPPORTING DOCUMENTS

(Articles 45 and 49 of the Financial Regulation)

Article 34

As regards supplies in general, the following in particular shall be considered to be a valid supporting document:

- the invoice drawn up by the supplier, accompanied, where necessary, by one of the copies of the document indicating the Community's commitment (e.g. order form or contract).

In every case the document drawn up by the supplier must indicate:

- the nature and quantity of the supplies or, if appropriate, a description of the services rendered in that connection,

Article 34

As regards supplies in general, the following in particular shall be considered to be a valid supporting document:

- the invoice drawn up by the supplier, accompanied, where necessary, by one of the copies of the document indicating the Institution's commitment (e.g. order form or contract)

unchanged

- the unit price and total price,
- mention of their exemption from charges and taxes; where appropriate, an indication of the amount of the charges, taxes and customs duties connected with the supply of the goods and included in the price.

In addition, the authorizing officer, or the official to whom he has delegated authority, must indicate the following points on that document:

- that the supplies have been properly received, indicating the date and place,
- that the supplies have been entered in the inventory whenever this is required,
- that all parts of the invoice have been checked,
- the opinion of the Advisory Committee on Purchases and Contracts.
- the opinion, if any, of the Advisory Committee on Purchases and contracts.

The same information could be given on a certificate of receipt.

The same information could be given on a certificate of receipt.

Articles 35, 36, 37, 38, 39 and 40 unchanged

TITLE VIII: BANK OR POST OFFICE GIRO ACCOUNTS

(Article 56 of the Financial Regulation)

Articles 41, 42, 43, 44 and 45 unchanged

TITLE IX: ADVANCE FUNDS

(Article 57 of the Financial Regulation)

Articles 46, 47 and 48 unchanged

Article 49

The decision setting up an advance fund shall lay down, in particular:

- (a) the maximum amount of the advance which can be granted;

Article 49

The decision setting up an advance fund shall lay down, in particular

- (a) unchanged

- | | |
|--|---|
| (b) whether a bank or post office giro account is to be opened in the name of the Community concerned; | (b) whether a bank or post office giro account is to be opened in the name of the <u>Institution</u> concerned; |
| (c) the nature and maximum amount of every payment which may be made without prior authorization; | (c) unchanged |
| (d) the time within which supporting documents must be produced and the procedure for producing them; | (d) unchanged |
| (e) the procedure to be applied in the case of a possible reconstitution of an advance; | (e) unchanged |
| (f) the time within which the formal requirements regarding the operations of the advance fund be complied with. | (f) unchanged |

Articles 50, 51, 52, 53 and 54 unchanged

TITLE X: INVITATION TO COMPETITIVE TENDER
(SELECTION AND CALL FOR TENDERS)

(Article 59 of the Financial Regulation)

Articles 55, 56, 57, 58, 59, 60, 61 and 62 unchanged

TITLE XI: RULES OF PROCEDURE FOR THE ADVISORY COMMITTEE
ON PURCHASES AND CONTRACTS (ACPC)

(Articles 62 and 103 of the Financial Regulation)

Articles 63, 64, 65, 66 and 67 unchanged

TITLE XII: PRELIMINARY DEPOSIT BY WAY OF GUARANTEE OF
EXECUTION OF THE CONTRACTS

(Article 64 of the Financial Regulation)

Articles 68, 69, 70 and 71 unchanged

TITLE XIII: DETERMINATION OF THE VALUE ABOVE WHICH MOVABLE
PROPERTY MUST BE ENTERED IN THE INVENTORY

(Article 67 of the Financial Regulation)

Article 72 unchanged

TITLE XIV: ADVERTISEMENT OF SALES OF MOVABLE PROPERTY

(Article 68 of the Financial Regulation)

Article 73 unchanged

TITLE XV: METHOD FOR DRAWING UP AND OPERATING THE
ACCOUNTING SYSTEM

(Article 74 of the Financial Regulation)

Articles 74, 75, 76 and 77 unchanged

TITLE XVI: INSURANCE OF ACCOUNTING OFFICERS, ASSISTANT
ACCOUNTING OFFICERS AND ADMINISTRATORS OF
ADVANCE FUNDS - SPECIAL INDEMNITY.
DETERMINING THE CATEGORIES OF OFFICIALS OR
OTHER STAFF QUALIFIED TO BE APPOINTED
ACCOUNTING OFFICERS OR ADMINISTRATORS OF
ADVANCE FUNDS

(Article 78 of the Financial Regulation)

Articles 78, 79, 80, 81, 82, 83 and 84 unchanged

TITLE XVII: GENERAL AND FINAL PROVISIONS

Articles 85, 86, 87 and 88 unchanged

EXPLANATORY STATEMENTI. INTRODUCTION

1. In February 1973 the European Parliament delivered an opinion on the proposal from the Commission of the European Communities to the Council concerning the Financial Regulation applicable to the budget of the European Communities. The Financial Regulation was adopted by the Council on 25 April 1973 and entered into force on 1 May 1973.

2. Some provisions of the Financial Regulation lay down that the Commission should establish at a later date the procedures for implementing various aspects of the Regulation.

3. Article 118 of the Financial Regulation provides that 'in consultation with the European Parliament and the Council and after the other institutions have delivered their opinions, the Commission shall adopt measures of implementation of this Financial Regulation'.

By letter of 12 June 1974 the Commission submitted to the European Parliament the draft regulation introducing procedures for implementing certain provisions of the Financial Regulation of 25 April 1973 and requested it to initiate the procedure of consultation.

II: AMENDMENTS PROPOSED BY THE EUROPEAN PARLIAMENT

4. The third paragraph of Article 18 of the Financial Regulation states that the institutions 'may delegate powers in accordance with the conditions laid down in the rules of procedure'. The new wording of Article 1 could prompt the institutions that have not yet done so to specify those conditions.

5. Article 10 provides that the Financial Controller and the assistant financial controller may not receive any instructions. It is thus at variance with Article 6 which states that assistant financial controllers 'shall bear the responsibility for the approvals granted by them in pursuance of the powers delegated to them or the instructions which they have received'. The relevant words should therefore be deleted from Article 6.

6. The amendment to Article 9 should make it clear that the articles concerned are those of the Commission's draft regulation and not of the Financial Regulation.

7. The second paragraph of Article 10 has been reworded to comply with the amendment to Article 6. It should however be noted that if the institution assigns duties to the assistant financial controllers in virtue of their appointments, the provisions of Article 6 concerning delegation of powers can no longer apply.

8. In order to avoid any divergence of interpretation by the Financial Controller and the accounting officer, it seems advisable to state expressly that the Financial Controllers should also have access to all accounts (Article 12)

9. As regards the second amendment, it seems advisable to repeat the phrase used in Article 5.

The same amendment applies to paragraphs 15 and 16.

10. In order to restrict the amendments to budget revenue, the type of payment should be specified (Article 17).

11. The text proposed by the Commission could be misinterpreted. It is illogical to transmit a draft decision of principle to the Financial Controller if it has already received the prior approval of the institutions. These provisions should therefore be reworded (Article 22).

12. Your rapporteur feels that the expression 'current expenditure' in Article 23 could be interpreted in different ways by the authorizing officers. The amount of the appropriations currently used depends entirely on the institution. There is clearly a great difference in this respect between the Commission and the Court of Justice, for example. Further, pursuant to Article 4, which permits each institution to adopt its own measures for administering appropriations it seems essential that each institution should draw up a list of budget items for which there may be provisional commitments. The list should state the intervals at which such provisional commitments may be renewed, the maximum amount of each, and the maximum amount of each individual commitment, and should be forwarded to the authorizing officers, the accounting officers and the Financial Controllers.

13. Article 24 states that where no exact figures can be given for the expenditure when the relevant proposal for a commitment is presented to the Financial Controller, the authorizing officer must estimate the expected expenditure. Your rapporteur feels that the authorizing officer should state in his proposal for a commitment the factors on which his estimate is based.

14. The text proposed by the Commission for Article 25 implies that there might be cases where the Financial Controller's comments are particularly necessary. To avoid ambiguity, it would be better to delete the second half of the article.

15. Again in Article 28 the text proposed by the Commission has been improved. The Financial Controller cannot be made responsible either for ascertaining the extent to which appropriations have been utilized or for informing the authorizing officers.

16. Article 32 does not take account of the fact that the decision of the higher authority of the institution to override the Financial Controller's refusal to give his approval has already been transmitted to him before the authorizing officer informs him of it.

17. In the first indented subparagraph of Article 34, the word 'Community' should be replaced by 'Institution'. The same applies to Article 49(b).

18. Article 62 of the Financial Regulation lays down that only contracts involving amounts exceeding 12,000 u.a. should be submitted for the opinion of a Purchases and Contracts Advisory Committee. The words 'if any' should therefore be inserted in the last indented subparagraph of Article 34.

19. The Committee on Budgets appreciates the fact that the European Parliament has been consulted on these implementing provisions although this is not expressly provided for in Article 209 of the EEC Treaty.

It considers these implementing provisions to be particularly important as regards the role of the internal Financial Controller and because they fill the numerous gaps created so far because of the too general nature of the provisions of the Financial Regulation of the Communities. The Committee on Budgets therefore supports this draft regulation and hopes that the text can be so applied in the various institutions as to facilitate harmonization of the implementing provisions of the Financial Regulation.

Luxembourg
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