

The implementation of the general budget of the European Union

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The implementation of the general budget of the European Union

The implementation of the budget involves taking responsibility for certain accounting operations. Pursuant to Article 274 of the Treaty establishing the European Community (EC), it is the Commission's task to implement the budget. This article provides that 'the Commission shall implement the budget in accordance with the provisions of the regulations made pursuant to Article 279 (*the Financial Regulation*), on its own responsibility and within the limits of the appropriations, having regard to the principles of sound financial management'. In addition, the Financial Regulation must specify the procedure by which the Commission exercises its prerogative.

Thus the Commission is the budget implementing authority. However, its power in this area has several **limits**.

In the first place, Article 50 of the Financial Regulation makes it clear that each institution is responsible for implementing the sections of the budget relating to it. This article, by granting a **principle of autonomy** to the other institutions, limits the power of the Commission in implementing the budget.

Comitology represents a further limit to the power of the Commission. Indeed, a variety of committees, consisting of national experts appointed by the Member States, have been set up since the Community began. Intended initially to assist the Commission in its executive task, they actually reduce its powers in that respect. The constant increase in the number of committees has its origins in Articles 202 and 211 of the EC Treaty. Article 202 provides that the Council shall 'confer on the Commission, in the acts which the Council adopts, powers for the implementation of the rules which the Council lays down', that it 'may impose certain requirements in respect of the exercise of these powers', and that it 'may also reserve the right, in specific cases, to exercise directly implementing powers itself'. Article 211 provides that 'the Commission shall exercise the powers conferred on it by the Council for the implementation of the rules laid down by the latter'. Whenever it invokes these two articles, the Council thereby demonstrates its intention to control the manner in which the Commission implements the budget.

The extent of the Commission's implementing power is also limited by the growth in the **delegation** of the management of the Community budget to external partners. The Commission therefore manages only a small part of the budget directly.

Methods of management of the Community budget

The enlargement of the European Union, the multiplicity of the Commission's obligations resulting from the development of Community policies, and the increasing volume of appropriations to be managed have led the Commission to adopt differentiated and externalised management methods. The mechanism of delegation to outside entities lightens the burden of the Commission's implementing tasks. The Financial Regulation of 21 December 1977 (Article 18(3)) already authorised the Commission and the other institutions to delegate their implementing powers in accordance with the conditions laid down by their internal rules of procedure and within the limits set in the act of delegation. The principle of delegation of implementing powers was increasingly applied from the 1970s onward, in particular with the establishment of decentralised Community bodies: the agencies. During the 1990s, in order to cope with new tasks of a technical and scientific nature and in an effort to decentralise Community activities, an increasing number of new agencies were set up. At the same time, the Commission delegated implementing tasks to technical assistance offices (TAOs). These TAOs are private law organisations which either carry out technical tasks or execute financial management transactions, including payments to beneficiaries. However, the use of TAOs has aroused vehement criticism both of the fact that public service tasks are being entrusted to the private sector and of the absence of prior preparation and training, as well as of the inadequacy of arrangements for control by the Commission.

This externalised management was the subject of a restructuring operation as part of the reform of the Financial Regulation adopted in June 2002. The new Financial Regulation helped to clarify and organise the various methods of management of the Community budget and to define limits and conditions for the

delegation of the implementing powers of the Commission. Accordingly, the Commission may not entrust to third parties the executive powers that it enjoys under the Treaties where they involve a large measure of discretion implying political choices (Article 54 of the Financial Regulation of 25 June 2002). It may delegate only technical expertise tasks and administrative, preparatory or ancillary tasks which do not involve the use of discretionary powers of judgment. In response to the controversies linked to the growth of TAOs in the 1990s, the Financial Regulation also provides that the Commission may not entrust measures of implementation of funds deriving from the budget to external private-sector entities or bodies, other than those which have a public-service mission (Article 57 of the Regulation of 25 June 2002).

Pursuant to Article 53 of the Regulation of 25 June 2002, the Commission shall implement the budget:

- on a centralised basis,
- by shared or decentralised management,
- by joint management with international organisations.

In **centralised management**, a distinction is made between **direct** management performed by the Commission's departments and **indirect** management carried out by other bodies. In the latter case, management is effected by **executive agencies**, by **traditional Community agencies**, or by national public-sector bodies or bodies governed by private law with a public-service mission more commonly referred to as '**national agencies**'. These agencies, which have their own legal personality, are vested with clearly defined implementing tasks and are subject to a process of rigorous supervision and control by the Commission.

When the Commission implements the budget by **shared management**, implementing tasks are delegated to the Member States. On the other hand, when the Commission implements the budget by **decentralised management**, implementing tasks are delegated to third countries. In both cases, the Commission must ensure that the countries in question will implement the budget in accordance with the applicable rules and with the principles of sound financial management.

Finally, the Commission may delegate certain implementing tasks to international organisations, which must apply standards which offer guarantees equivalent to internationally accepted standards. This is called **joint management**.

The financial actors

The financial actors are the agents entrusted with the conduct of certain accounting operations in the implementation of expenditure under the Community budget. Pursuant to Article 17 of the Financial Regulation of 21 December 1977, they are the authorising officer, the financial controller and the accounting officer. These financial actors are employed in each institution. In addition, the 1977 Financial Regulation introduces the principle of separation of functions and their mutual incompatibility.

The Financial Regulation has been amended on a number of occasions, but the reform carried out in 2002 introduced the most significant changes as regards the designation and role of certain of these financial actors.

The **authorising officer** is responsible for making budgetary commitments, for validating expenditure and for authorising payments. He also makes legal commitments which bind the Commission to third parties, establishes entitlements to be recovered and issues recovery orders. In the performance of his tasks, he is required to apply the principles of legality, regularity and sound financial management. The Financial Regulation of 25 June 2002 strengthens the authorising officer's responsibility. Indeed, since the removal by the Financial Regulation of 2002 of the procedure of advance approval of revenue and expenditure — carried out by the financial controller — the authorising officer is made responsible for the entire management process and must consequently put in place a series of control functions within his departments. He therefore applies in those departments an evaluation structure designed to analyse the viability of proposals (*ex ante* evaluation) and to measure the success and cost-effectiveness of current programmes (mid-term evaluation and *ex post* evaluation).

The **financial controller**, as provided for in the 1977 Financial Regulation, ensures that the principles of legality and regularity are observed by the authorising officer and verifies that the operations proposed by him conform to sound and effective management. In the conduct of *ex ante* verifications, the financial controller issues an explicit prior authorisation, the 'approval', in respect of each operation of budgetary commitment, payment or recovery. The Council Regulation of 23 November 1998 amended the 1977 Financial Regulation and conferred on the financial controller the function of **internal auditor** for his institution. In performing this function, he is required to assess the effectiveness of the management and control systems in place. Subsequently, the Council Regulation of 9 April 2001 again amended the 1977 Financial Regulation, making provision for the separation of the internal audit functions from the other functions performed by the financial controller. This separation of functions is compulsory for the Commission but optional for the other institutions. Accordingly, the Commission appoints an internal auditor who is independent of the financial controller. The internal auditor must, on the one hand, assess the effectiveness of the management and control systems and verify the regularity of operations and, on the other hand, draw up an annual report for his institution setting out the conclusions for the financial year just ended. Following the reform undertaken by the Financial Regulation in 2002, the post of financial controller was abolished and was replaced in each institution and under the responsibility of the authorising officer by an internal auditor required to provide an assurance to the institution of the proper functioning of systems and procedures for the implementation of the budget. He is therefore responsible for assessing the effectiveness and efficiency of the internal management and control systems introduced by the authorising officer, but he does not intervene in the implementation of the budget. As the internal auditor is not involved in the implementation of the budget, he is not a financial actor, and that affords him a certain independence within his institution.

The **accounting officer** executes the payment and recovery orders issued by the authorising officer. He verifies in advance that the payments will have the effect of releasing the institution from its debt. He arranges for the accounting of expenditure and revenue operations executed (budgetary accounting) and is responsible for treasury management. He also draws up the financial statements of the institution and consolidates them with those of the other institutions. Finally, he must ensure the reliability of the accounts and the quality of the financial information included in the management systems put in place by the authorising officer. The function of accounting officer has been maintained over time. The 2002 Financial Regulation did not bring about any substantial change in his duties but introduced, among other innovations, a requirement that the accounting officer must receive from the authorising officer all the information required for the production of accounts. In parallel, the removal of the concept of *ex ante* verification means that the systematic validation of payments by the accounting officer is abandoned. Finally, the accounting officer determines the accounting standards which are applicable to the accounts of all the institutions.