THE BUDGETARY PROCEDURE

Since the 1970 and 1975 Treaties, Parliament's role in the budgetary process has gradually been enhanced. The Lisbon Treaty gave Parliament an equal say with the Council in the entire EU budget.

LEGAL BASIS

— Article 314 of the Treaty on the Functioning of the European Union (TFEU) and Article 106a of the Treaty establishing the European Atomic Energy Community;

— Articles 36 to 52 of the Financial Rules (Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002[1]);

— Interinstitutional Agreement (IIA) between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management approved by Parliament on 19 November 2013 and by the Council on 2 December 2013[2], following the political agreement reached between the Presidents of Parliament, the Council and the Commission on 27 June 2013.

OBJECTIVES

The exercise of budgetary powers consists in establishing both the overall amount and distribution of annual EU expenditure and the revenue necessary to cover it, and in exercising control over the implementation of the budget. The budgetary procedure itself involves the preparation and adoption of the budget. (1.4.1 for details on EU revenue, 1.4.2 for details on expenditure, 1.4.3 for details on the MFF, 1.4.4 for details on implementation and 1.4.5 for details on budgetary control).

DESCRIPTION

A. Background

The European Parliament and the Council together form the budgetary authority. Prior to 1970, budgetary powers were vested in the Council alone; Parliament had only a

[1]OJ L 298, 26.10.2012, p. 1.
[2]OJ C 373, 20.12.2013, p. 1.

consultative role. The Treaties of 22 April 1970 and 22 July 1975 increased Parliament's budgetary powers:

- The 1970 Treaty, while maintaining the Council's right to have the last word on 'compulsory expenditure' resulting from Treaty obligations or from acts adopted in accordance with the Treaty, gave Parliament the final say on 'non-compulsory expenditure', which initially amounted to 8% of the budget;
- The 1975 Treaty gave Parliament the right to reject the budget as a whole.

Until the Lisbon Treaty came into force, the Council and Parliament each engaged in two readings in the course of the budgetary procedure, at the end of which Parliament could either adopt the budget or reject it as a whole.

No substantial modifications were introduced by subsequent Treaties until the major changes brought by the Treaty of Lisbon. The Treaty of Lisbon introduced a simpler and more transparent budgetary procedure (budgetary codecision). The modifications derive mainly from the removal of the distinction between compulsory expenditure and non-compulsory expenditure, allowing for equal treatment of all expenditure under the same procedure. The procedure has been further simplified, with only one reading in each institution, based on the draft budget presented by the Commission.

B. The stages in the procedure

Article 314 of the TFEU sets out the stages and time limits that must be respected during the budgetary procedure. However, the institutions agree on a 'pragmatic' calendar each year in due time before the start of the budgetary procedure based on the present practice.

1. Stage one: establishment of the draft budget by the Commission

Parliament and the Council lay down guidelines on the priorities for the budget. The Commission draws up the draft budget and forwards it to the Council and Parliament by 1 September at the latest (under Article 314(2) TFEU, but by the end of April or beginning of May according to the pragmatic timetable). The Commission may modify the draft budget at a later stage to take account of new developments, but no later than the point at which the Conciliation Committee (see below) is convened.

2. Stage two: establishment of the Council's position on the draft budget

The Council adopts its position on the draft budget and forwards it to Parliament by 1 October at the latest (under Article 314(3) TFEU, but by the end of July according to the pragmatic timetable). The Council must inform Parliament in full of the reasons which have led it to adopt its position.

3. Stage three: Parliament's reading

Parliament has 42 days in which to react. Within that period, it may either approve the Council's position or decline to take a decision, in which case the budget is deemed finally adopted, or else Parliament can adopt amendments by a majority of its component members, in which case the amended draft is referred back to the Council and to the Commission. The President of Parliament, in agreement with the President of the Council, must then immediately convene a meeting of the Conciliation Committee.

4. Stage four: meeting of the Conciliation Committee and adoption of the budget

From the day on which it is convened, the Conciliation Committee (composed of the representatives of the members of the Council and an equal number of representatives of Parliament) has 21 days to agree on a joint text. To do so, it must take its decision by a qualified majority of the members of the Council or their representatives and by a majority of the representatives of Parliament. The Commission takes part in the Conciliation Committee's proceedings and takes all the necessary initiatives to seek to reconcile the positions of Parliament and the Council.

Should the Conciliation Committee fail to find an agreement on a joint text within the 21 days referred to above, a new draft budget must be submitted by the Commission. If the Conciliation Committee does agree on a joint text within the deadline, then Parliament and the Council have 14 days from the date of that agreement in which to approve the joint text. The following table summarises the possible outcomes at the end of that 14-day period.

Process of approval of the conciliation joint text

	Parliament	Council	Outcome
Positions on the joint text **+ = adopted** **− = rejected** **None = no decision taken**	+	+	Joint text adopted
		–	Back Parliament position, possibly[3]
		None	Joint text adopted
	None	+	Joint text adopted
		–	New draft budget from Commission
		None	Joint text adopted
	–	+	New draft budget from Commission
		–	New draft budget from Commission
		None	New draft budget from Commission

If the procedure is successfully completed, the President of Parliament declares that the budget has been definitively adopted. In the event that no agreement has been reached by the beginning of a financial year, a system of provisional twelfths is put in place until an agreement can be reached. In this case, a sum equivalent to no more than one twelfth of the budget appropriations for the preceding financial year may be spent each month in respect of any chapter of the budget. That sum must not, however, exceed one twelfth of the appropriations provided for in the same chapter of the draft budget. However, under Article 315 of the TFEU, the Council may, on a proposal from the Commission, authorise expenditure in excess of one twelfth (in accordance with Article 16 of the Financial Rules) unless Parliament decides within 30 days to reduce the expenditure authorised by the Council.

5. Supplementary and amending budgets

In the event of unavoidable, exceptional or unforeseen circumstances (in accordance with Article 41 of the Financial Rules), the Commission may propose draft amending

[3]This occurs if Parliament confirms some or all of its previous amendments, acting by a majority of its component Members and three-fifths of the votes cast. If Parliament does not reach the required majority, the position agreed in the joint text is adopted.

budgets amending the adopted budget for the current year. These amending budgets are subject to the same rules as the general budget.

ROLE OF THE EUROPEAN PARLIAMENT

A. Powers conferred by Article 314 of the TFEU

In 1970, Parliament gained the right to have the last word on non-compulsory expenditure. The proportion of non-compulsory expenditure rose from 8% of the budget in 1970 to more than 60% in the 2010 budget, the last year in which the distinction was made. With the abolition of the distinction between compulsory and non-compulsory expenditure (TFEU), Parliament now has joint powers with the Council over all budget expenditure. Parliament's position can even be considered stronger than that of the Council since the latter may never impose a budget against the will of Parliament, while Parliament may in some circumstances have the last word and impose a budget against the will of the Council (see B.4 above). However, this is rather unlikely, and it would be more appropriate to say that the new budgetary procedure is based, for the most part, on genuine (albeit specific) codecision between Parliament and the Council, on an equal footing, covering all Union expenditure. Parliament has rejected the budget as a whole on two occasions (in December 1979 and December 1984) since acquiring the power to do so in 1975. Under the new rules agreed in the Lisbon Treaty, the Conciliation Committee has thrice failed to reach agreement (on the 2011, 2013 and 2015 budgets). In all three cases, the new draft budget presented by the Commission, reflecting the near-compromise in conciliation, was finally adopted.

In the case of the 2018 budget, the three institutions reached an agreement at the conciliation committee held on 18 November 2017, followed by the adoption of the Council position on the new draft budget on 30 November and the plenary vote in Parliament on the same day. The negotiators agreed to a compromise package of EUR 160.1 billion in commitments and EUR 144.7 billion in payments. The 2018 budget focuses on boosting growth, investments and job creation, supporting youth employment, and tackling migration and security challenges.

B. The Interinstitutional Agreements on budgetary discipline (IIA) and the multiannual financial frameworks (MFFs) (1.4.3)

Following repeated disputes concerning the legal base for implementation of the budget, the institutions adopted a joint declaration in 1982, which also laid down measures designed to ensure smoother completion of the budgetary procedure. This was followed by a series of Interinstitutional Agreements covering the following periods: 1988-1992, 1993-1999, 2000-2006 and 2007-2013. These successive agreements have provided an interinstitutional reference framework for the annual budgetary procedures and have considerably improved the way the budgetary procedure works.

The current IIA entered into force on 23 December 2013[4]. It aims to facilitate the annual budgetary procedure and to complement the provisions of the MFF regulation (which has become a binding regulation, with binding ceilings), notably

[4]OJ C 373, 20.12.2013, p. 1.

on the special instruments outside the MFF. These provisions concern the following special instruments: the Emergency Aid Reserve, the European Union Solidarity Fund, the Flexibility Instrument, the European Globalisation Adjustment Fund and the Contingency Margin.

Although MFFs do not replace the annual budgetary procedure, the Interinstitutional Agreements have introduced a form of budgetary codecision procedure, which allows Parliament to assert its role as a fully-fledged arm of the budgetary authority, to consolidate its credibility as an institution and to direct the budget towards its political priorities. The Lisbon Treaty and the Financial Rules also stipulate that the annual budget must comply with the ceilings set in the MFF, which must itself comply with the ceilings established in the decision on own resources.

C. The European Semester

On 7 September 2010, the Economic and Financial Affairs Council approved the introduction of the 'European Semester', a cycle of economic policy coordination at EU level with the aim of achieving the Europe 2020 targets. This is a six-month period every year, during which the Member States' budgetary and structural policies are to be reviewed in order to detect any inconsistencies and emerging imbalances. On the basis of the analytical economic assessment, the Commission provides policy guidance/recommendations to the Member States covering fiscal, macroeconomic and structural reforms. The aim of the European Semester is to strengthen coordination while major budgetary decisions are still under preparation at national level. In addition to coordination between national budgets, the European Parliament is also seeking to exploit synergies and strengthen coordination between national budgets and the EU budget.

Rita Calatozzolo
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