IMPLEMENTATION OF THE BUDGET

The Commission is responsible for implementing the budget in cooperation with the Member States, subject to political scrutiny by the European Parliament.

LEGAL BASIS

- Articles 290-291, 317-319 and 321-323 of the Treaty on the Functioning of the European Union (TFEU) and Article 179 of the Euratom Treaty;
- The Financial Regulation, i.e. 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];
- The Implementing Rules to the Financial Regulation, i.e. Commission Delegated Regulation of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union[2];
- Regulation (EU, Euratom) No 547/2014 of the European Parliament and of the Council of 15 May 2014 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union[3];
- Regulation (EU, Euratom) No 2015/1929 of the European Parliament and of the Council of 28 October 2015 amending Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union[4];
- The Interinstitutional Agreement (IIA) of 2 December 2013 between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management[5].

OBJECTIVE

The Commission is responsible for implementing the revenue and expenditure of the budget in accordance with the Treaties, in accordance with the provisions and instructions set out in the Financial Regulation, and within the limit of the appropriations authorised (1.5.3).

The Member States cooperate with the Commission so that the appropriations are used in accordance with the principles of sound financial management, i.e. economy, efficiency and effectiveness.

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[1]OJ L 298, 26.10.2012, p. 1.
[2]OJ L 362, 31.12.2012, p. 1.
[3]OJ L 163, 29.5.2014, p. 18.
[4]OJ L 286, 30.10.2015, p. 1.
[5]OJ C 373, 20.12.2013, p. 1.

DESCRIPTION

A. Basic mechanism

The implementation of the budget involves two main operations: commitments and payments. As regards the commitment of expenditure, a decision is taken to use a particular sum from a specific budgetary line in order to finance a specific activity. Once the corresponding legal commitments (e.g. contracts) have been established, and delivery has been made of the contractual service, work or supplies, the expenditure is authorised and the sums due are paid.

B. Methods of implementation

As specified in Article 58 of the Financial Regulation, the Commission may implement the budget in one of the following ways:

— directly ('direct management') by its departments, or through executive agencies;

— under shared management with Member States ('shared management');

— indirectly ('indirect management'), by entrusting budget implementation tasks to entities and persons, e.g. third countries, international organisations and others.

In practice, some 76% of the budget is spent under 'shared management' (with Member States distributing funds and managing expenditure), 22% under 'direct management' by the Commission or its executive agencies, and the remaining 2% under 'indirect management'[6].

The Financial Transparency System[7] provides information on the beneficiaries of funds directly managed by the Commission; beneficiaries of the European Development Fund are also listed. On the other hand, each Member State is responsible for publishing data on the beneficiaries of the funds it administers under indirect and shared management[8].

Article 317 TFEU specifies that the Commission must implement the budget in cooperation with the Member States, and in addition that the regulations made pursuant to Article 322 TFEU must lay down the control and audit obligations of the Member States in the implementation of the budget and the resulting responsibilities.

Furthermore, in the broader context of the implementation of EU legislation, Articles 290 and 291 TFEU set out the provisions governing the delegated and implementing powers conferred on the Commission and, in particular, the control exercised over the Commission in this regard by the Member States, the Council and the European Parliament.

According to Article 290 TFEU, a legislative act may delegate to the Commission the power to adopt non-legislative acts to supplement 'certain non-essential elements of the legislative act'. Parliament and the Council have the right to revoke such delegation of powers to the Commission, or to object to it, thereby preventing it from entering into force.

Article 291 regulates the implementing powers conferred on the Commission. Whereas Article 291(1) TFEU stipulates that Member States are responsible for the adoption of all measures of national law necessary to implement legally binding Union acts, Article 291(2) TFEU provides for these acts to confer implementing powers on the Commission or, in the case of Articles 24 and 26 of the Treaty on European Union (TEU), on the Council, where 'uniform conditions for implementing legally binding Union acts are needed'. Pursuant to Article 291(3)

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[6]Data provided by the Commission's Directorate-General for the Budget.
[7]http://ec.europa.eu/budget/fts/index_en.htm
[8]However, a map providing links to websites managed by Member States (which bear sole responsibility for the sites' content), can be found here: http://ec.europa.eu/contracts_grants/beneficiaries_en.htm

TFEU, Parliament and the Council lay down, by means of regulations, the rules concerning mechanisms for control of the Commission's exercise of implementing powers.

Article 291 TFEU is supplemented by Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers[9]. This control is exercised through committees composed of representatives of the Member States and chaired by a representative of the Commission. The regulation lays down two new types of procedure, applicable depending on the scope of the act in question: under the examination procedure, the Commission cannot adopt the measure if the committee has delivered a negative opinion; under the advisory procedure, the Commission is obliged to take 'utmost account' of the committee's conclusions, but is not bound by the opinion.

Incorrect implementation of the budget by Member States is penalised through the clearance of the accounts procedure and eligibility checks, whereby national government receipts from the EU budget are corrected by recalling unduly paid funds following checks carried out by the Commission and the Court of Auditors. Decisions concerning such corrections are taken by the Commission in accordance with the aforementioned procedures for the exercise of implementing powers (1.5.5).

The implementation of the budget in particular sectors has been the subject of frequent criticism by the Court of Auditors (1.3.10).

C. Implementation rules

The Financial Regulation contains all the principles and rules which govern the implementation of the budget. It has a horizontal character, being applicable to all areas of expenditure and all revenue. Further rules applicable to the implementation of the budget are to be found in sector-based regulations covering particular EU policies.

The first Financial Regulation was originally adopted on 21 December 1977. The last revised Financial Regulation was adopted in 2012 after a legislative procedure initiated by the Commission in 2010 and preceded by a public consultation in 2009. It was subsequently amended, in May 2014 and then in October 2015.

Article 211 of the Financial Regulation states that the regulation 'shall be reviewed whenever it proves necessary to do so and in any case at the latest two years before the end of the first post-2013 multiannual financial framework'.

The Commission's main tool for implementing the budget, and for monitoring its execution, is its computerised accounting system ABAC (accruals-based accounting). The Commission has taken action to meet the highest international accounting standards, in particular the International Public Sector Accounting Standards (IPSAS) established by the International Federation of Accountants (IFAC). The Member States' responsibility in the shared management of the EU budget has been tightened, notably through Article 59 of the Financial Regulation.

An important aspect of budgetary implementation is compliance with EU legislation applicable to public procurement contracts (supply, works and services 3.2.2).

ROLE OF THE EUROPEAN PARLIAMENT

Firstly, as one of the two arms of the budgetary authority, Parliament has prior influence on the implementation of the EU budget by means of amendments made and decisions taken in

[9]OJ L 55, 28.2.2011, p. 13.

the context of the budgetary procedure (1.4.3) to allocate funds. Parliament may decide to make use of the reserve mechanism of the budget whereby, if it has any doubts regarding the justification of expenditure or the Commission's ability to implement it, Parliament may decide to place the funds requested in the reserve until the Commission provides appropriate evidence. Such evidence is provided as part of a request to transfer funds from the reserve. Both Parliament and the Council are required to approve proposals for transfers. Appropriations cannot be implemented until they have been transferred from the reserve and to the relevant budget line.

Secondly, the discharge procedure (1.5.5) allows Parliament to control the implementation of the current budget. Although most questions raised concern the discharge period, many of the questions put to the Commission by Parliament's Committee on Budgetary Control — within the framework of the discharge procedure — refer to the implementation of the current budget. The discharge resolution, which is an integral part of the discharge decision, contains numerous obligations and recommendations addressed to the Commission and other bodies involved in the implementation of the budget.

According to the Treaty of Lisbon, Parliament is, along with the Council, responsible for establishing 'the financial rules which determine in particular the procedure to be adopted for establishing and implementing the budget and for presenting and auditing accounts' (Article 322(1) TFEU).

In September 2016, the Commission tabled a proposal for a new Financial Regulation which would replace the current one (together with its Rules of Application), as well as amend 14 other sectoral regulations and a decision each also containing financial rules. The stated objective of the proposal is to simplify EU financial rules and make them more flexible. The Committee on Budgets and the Budgetary Control Committee are jointly responsible. Opinions will be sought from several committees (i.e. Committees on Agriculture and Rural Development; Regional Development; Employment & Social Affairs; Transport; Industry; Fisheries; Civil Liberties, Justice & Home Affairs; Foreign Affairs; and Development). The legislative process is currently still running[10].

Furthermore, in almost all policy areas, Parliament influences the implementation of the budget through its legislative and non-legislative activities, e.g. by reports and resolutions or simply by addressing oral or written questions to the Commission.

Over the past few years, Parliament has strengthened its political control over the Commission by introducing instruments which enable an exchange of information on the implementation of funds and the amount of commitments outstanding (i.e. legal commitments which have not yet been honoured by payment). Outstanding commitments can become a problem if accumulated over longer periods, and Parliament is therefore pushing the Commission to keep these under control.

New tools are being developed to allow for better monitoring of the implementation process and to improve the value for money of EU programmes. For this purpose, Parliament calls for high-quality Activity Statements (prepared by the Commission in preliminary draft general budget working documents) and the regular submission of cost-effectiveness analyses for EU programmes.

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[10]On 26 January 2017, the European Court of Auditors (ECA) adopted its Opinion No 1/2017.