

A BRIEF LOOK AT THE BUDGETARY PROCEDURE IN THE EUROPEAN UNION AND THE RECOVERY PLAN FOR EUROPE

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Abstract

The adoption of the budget of the European Union is carried out through a special legislative procedure. This is a version of the regular procedure, which is specially adapted to the particular characteristics of the budgetary process. The budgetary function in the European Union is exercised by the Council together with the European Parliament. The two institutions have equal powers in the budgetary procedure, following the Treaty of Lisbon (signed in 2007). Budgetary powers involve the determination of the total amount and distribution of the annual expenditure of the European Union as well as the revenue needed to cover it. The EU's long-term budget and NextGenerationEU (NGEU - the temporary instrument designed to stimulate recovery) will form the largest incentive package ever funded in Europe.

Keywords: *European Union, budget, special legislative procedure, budgetary procedure, expenditure, revenue, Recovery Plan for Europe.*

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1. Preliminary clarifications

The Coal and Steel Economic Community (ECSC)² had two budgets, one administrative budget and one operational budget. ECSC budgets were financed by taxes on coal and steel³ production and by contracting loans. The European Atomic Energy Community (EURATOM)⁴ also had two budgets, one administrative budget and one research and investment budget⁵.

EURATOM budgets were financed by Member States' contributions.

The European Economic Community (EEC)⁶ had a single budget, separate from the two ECSC and EURATOM budgets.

The EEC budget, like the EURATOM budget, is financed by Member States' contributions.

The Treaty of Merger of the Executive of the Three Communities⁷, Brussels, provided, *inter alia*, for the amalgamation of the ECSC administrative budget and the EURATOM administrative budget into the EEC budget⁸.

Since 1 July 1967, the single budget of the EEC has been supplemented by national contributions and ECSC levies which contribute to the running costs.

A first step in changing the budgetary resources for the Communities is taken by the EEC Council Decision of 1970 (21 April) introducing a system of own resources for the general budget of the EEC, which will gradually replace the contributions of the Member States in the following year, in 1971).

Own resources included customs duties which were progressively transferred as income of the European Economic Community between 1971 and 1975, agricultural duties which had been paid to the EEC since 1971 and income based on VAT. Initially, revenue was limited to 1% of the Community VAT arrangement⁹. During the period of implementation of the provisions of the EC Council Decision, replacing the contribution of the Member States with the own resources revenue, the said contributions had to be at a level which would balance the budget of the European Economic Community.

A decisive second step in the history of the budget of the European Communities was the

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² The Treaty was signed in Paris in 1951 (EUR-Lex-xy002z-EN-EUR-Lex).

³ European Commission, European Union, Public Finance, 4th Edition, 2008, p. 16.

⁴ The treaty was signed in Rome in 1957.

⁵ European Commission, European Union, Public Finance, 4th Edition, 2008, p. 16.

⁶ The treaty was signed in Rome in 1957.

⁷ The Treaty was signed on 8 April 1965 and entered into force on 1 July 1967.

⁸ European Commission, European Union, Public Finance, 4th Edition, 2008, p. 16.

⁹ *Idem*.

Treaty of Amsterdam¹⁰, which amended the EC Treaty (Articles 268-280) because it regulates the procedures for drawing up and adopting the budget.

By the Treaty of Brussels of 1975 (July 22), the control of compliance with the budget rests with the European Court of Auditors¹¹.

Until 1974, the Council of the European Communities was the sole budgetary and legislative authority, so that, from 1975, the EC Parliament would take over some of these powers, so that from 1 June 1977 (the date of entry into force of the Treaty of Brussels) the EC Parliament has the power to reject the EEC Budget en bloc.

2. The Multiannual Financial Framework (MFF)

The Multiannual Financial Framework (MFF), originally called the Financial Perspective¹², is a multiannual programming structure that includes the political priorities of the European Union from a financial perspective for a period of at least 5 years. The MFF sets maximum annual amounts for large categories of expenditure. The annual budgetary procedure must comply with these ceilings. The MFF also ensures budgetary discipline and the predictability of Union expenditure. The MFF is being negotiated, with the aim of defining, in broad terms, for the next budget cycle, the spending limits that determine how much money the Union can spend, the spending programs that determine for what purposes the money should be spent and the rules governing how to finance it. expenses¹³.

Between 1971 and 2002 there were two budgets: one for the EEC and one budget for the ECSC. The EEC budget has been renamed the EU budget since 1 November 1993. Since 2002, there has been a single EU budget that has taken over the tasks of the ECSC operational budget.

The parties to the MFF negotiations are the Commission, the Council and the European Parliament.

According to the Lisbon Treaty, the MFF is established by regulation. Each MFF is therefore part of an interinstitutional agreement between the Council, the European Parliament and the Commission. To date, the European Union has had four multiannual financial frameworks since 1988. The EU Financial Regulation was originally adopted on 21 December 1977, a date which has been repeatedly¹⁴ amended. The MFF Regulation sets ceilings for 2 types of annual expenditure¹⁵:

1. legal commitments to spend money not to be paid in the same financial year, but over several financial years;
2. payments, actual amounts to be paid during a given financial framework. There are also 2 types of expenditure ceilings:
 - a) one ceiling for each item of commitments;
 - b) a ceiling on total commitment and payment expenditure.

The Lisbon Treaty¹⁶, respectively the TFEU, provides in art. 312, "If the Council Regulation establishing a new financial framework has not been adopted at the end of the previous financial framework, the ceilings and other provisions corresponding to the last year of that framework shall be extended until the adoption of this act¹⁷."

¹⁰ The Treaty was signed in 1997 and entered into force in 1999 (<https://eur-lex.europa.eu/legal-content/RO/TXT/?uri=CELEX:11997D/TXT>).

¹¹ European Commission, European Union, Public Finance, 4th Edition, 2008, p. 20.

¹² The concept of "financial perspective" was developed to strengthen budgetary discipline and improve budget execution through better planning. the first interinstitutional agreement in this regard (IIA) was concluded in 1988, for the period 1988-1992, known as the Delors Package; see by Alix, Delasnerie, <https://www.europarl.europa.eu/factsheets/en/sheet/29/cultul-financiar-multianual>, 09. 2021.

¹³ EU Annual Budget Consilium.

¹⁴ European Commission, European Union, Public Finance, Fourth Edition, 2008, p. 126.

¹⁵ EU Annual Budget Consilium.

¹⁶ See, I. Boghirnea, *Teoria generala a dreptului*, Publishing House Sitech, Craiova, 2013, p. 29; Valcu, Elise. *Institutional Community Law*, 3rd edition, revised and added. Craiova: Sitech, 2012, pp.81-82.

¹⁷ <http://ec.europa.eu/budget/library/biblio/publications/2011/mff2011/KV3112884RON-web.pdf>, consulted on 1.10.2021.

3. The budgetary function in the European Union

Since the 1970 and 1975 Treaties, the role of the European Parliament in the budgetary procedure has gradually increased. The Treaty of Lisbon gives the European Parliament the same powers as the Council in adopting the Union budget. Thus, the annual budget of the Union is adopted by the European Parliament and the Council together, in accordance with a special legislative procedure, according to art. 314 and art. 315 TFEU.

The Lisbon Treaty introduced a simpler and more transparent budgetary procedure, "budgetary co-decision"¹⁸.

The simplification and the amendments made by the Treaty of Lisbon result in the elimination of the distinction between compulsory and non-compulsory expenditure, thus allowing all expenditure to be subject to the same procedure.

The simplification of the procedure also meant that the draft presented by the Commission involved a single reading of it within each institution (authorized for this purpose).

The procedure involves four stages:

- the first stage consists of the draft budget established by the Commission;
- the second stage consists of the Council's position on the draft budget,
- the third stage is reserved for the European Parliament, which, taking note of the Council's position, has a time limit for taking a decision to that effect.
- the fourth stage involves two phases, which consist of the meeting of the Conciliation Committee and the adoption of the budget.

The procedure begins with the fact that each institution of the Union shall draw up, by 1 July of each year, an estimate of its expenditure for the annual budget year¹⁹. The financial statements thus drawn up are grouped by the Commission in a budget proposal, to which it attaches an opinion which may contain different estimates (an estimate of revenue and an estimate of expenditure).

The Commission must submit this project proposal to the European Parliament and the Council by 1 September of the year preceding the implementation of the budget²⁰. During the procedure the Commission may amend the budget proposal until a **conciliation committee** is convened. The Council shall, on a statement from the European Parliament by 1 October of the year preceding the year of implementation of the budget, adopt the draft budget thus drawn up by the Commission.

The European Parliament may act as follows:

- either approve the Council's position and the budget is adopted,
- or take no decision and the budget is deemed to have been adopted under these conditions,
- in this case, the President of the EP, in agreement with the President of the Council, shall convene a **Conciliation Committee**. (If the Council informs the EP that it approves all its amendments within 10 days, the Conciliation Committee will not meet again.)

From the day of the convocation, the Conciliation Committee has 21 days to reach agreement on a joint draft.

The Conciliation Committee shall be composed of representatives of the members of the Council and an equal number of representatives of the European Parliament.

The Conciliation Committee shall act by a qualified majority of the members of the Council or of their representatives and by a majority of the representatives of the European Parliament²¹.

The Commission shall take part in the Conciliation Committee's work with a view to promoting the necessary initiatives to reconcile the positions of the European Parliament and the Council.

If, within 21 days, the Conciliation Committee does not reach agreement on a joint text, the

¹⁸ See, Rita Calatozzolo, <https://www.europarl.europa.eu/factsheets/en/sheet/10/budget-procedure>, 09-2021.

¹⁹ See, Roman D. I., *International Public Finance*, Economic Publishing House, Bucharest, 2006, p. 290.

²⁰ See, Ioana-Nely Militaru, *European Union Law. Chronology. Springs. Institutions. The European Union's internal market. Fundamental freedoms*. 3rd edition, Universul Juridic Publishing House, Bucharest, 2017, p. 204.

²¹ See Rita Calatozzolo, *op. cit.*

Commission shall present a new draft budget.

If, within the same period, the Conciliation Committee reaches an agreement on a joint text, the EP and the Council have 14 days from the date of the agreement to approve the joint text.

The EP President finds that the budget is finally adopted, if the procedure for adopting the budget has been fulfilled, according to art. 314 par. 1 and 7 TFEU.

Without considering another stage of the budgetary procedure, it is possible to follow a phase in which, in the event of unavoidable, exceptional or unforeseen circumstances²², the Commission will propose draft amending budgets to amend the adopted budget for that year. These amending budgets have the same legal status as the general budget.

4. The role of the European Parliament in the budgetary procedure

The Treaties of 22 April 1970 and 22 July 1975, also known as the 'Budgetary Treaties', increased the budgetary powers of the European Parliament as follows²³:

- The 1970 Treaty, while maintaining the the last word on "compulsory expenditure" in relation to obligations under the Treaty or acts adopted under the Treaty gave the EP the last word on "non-compulsory expenditure", which originally accounted for 8% of the budget;

- The 1975 Treaty gave the EP the right to reject the budget as a whole.

It is even considered that the position of the European Parliament is stronger than that of the Council, as this institution can never impose a budget against the will of the EP, while the European Parliament has the last word and, in some conditions, can impose a budget corresponding to stages IV of the budgetary procedure, namely the "meeting of the Conciliation Committee and the adoption of the budget".

However, it is fair to say that the budgetary procedure is now a genuine "co-decision, albeit a special one"²⁴, of the European Parliament and the Council, which are on an equal footing, designed to cover all expenditure.

However, we are exemplifying the role of the European Parliament, in the sense of its "last word", when it rejected the overall budget twice, in December 1979 and December 1984, because, subsequently, according to the Treaty of Lisbon, under this treaty, there should be 3 situations in which the conciliation committee does not reach an agreement, respectively in 2011, 2013 and 2015.

The budget for 2021 on 4 December 2020, the EP and the Council reached a common agreement which could not be agreed before to reach agreement on the Multiannual Financial Framework within the Council.

The Commission has therefore presented a new draft budget for 2021, which was voted on 15 December 2020 (and adopted in plenary on 18 December).

It entered into force on 1 January 2021. The budget includes, as we indicated at the beginning of the paper, figures for 2021:

- a global level of commitment appropriations, which for 2021 is EUR 164.3 billion,

- a the overall level of payment appropriations is € 166.1 billion for 2021.

These amounts provide funding for priorities, which include, inter alia, the European Interconnection Mechanism, digital Europe and humanitarian aid.

5. Budgetary discipline and multiannual financial frameworks

Budgetary discipline has over time been the subject of interagency IIA agreements, as a result of disagreements over the legal basis for the implementation of the budget.

These interinstitutional agreements covered the periods 1988-1992, 1993-1999, 2000-2006, 2007-2013.

They aimed to improve the way the budgetary procedure works.

²² According to art. 41 of the Financial Rules.

²³ See Rita Calatozzolo, *op. cit.*

²⁴ *Idem.*

The Interinstitutional Agreement, which entered into force on 23 December 2013²⁵, complements the CF Financial Regulation, in particular as regards special instruments outside the financial framework: Emergency Aid Reserve, European Union Solidarity Fund, Flexibility Instrument, European Adjustment Fund, globalization and the margin for unforeseen situations.

The Treaty of Lisbon and the Financial Rules also stipulate that the annual budget must comply with the ceilings set out in the MFF, which in turn must comply with the ceilings set out in the Decision on own resources²⁶.

6. The long-term budget of the European Union

The long-term budget of the European Union is limited to the following historical context, as follows²⁷:

- 2 May 2018, the Commission presents its proposal for the next long-term budget of the EU;
- 27 May, 2020, in the wake of the COVID-19 pandemic crisis, the European Commission proposes the creation of the temporary recovery instrument NextGenerationEU and the consolidation of funding for certain programs in the long-term EU budget for 2021-2027;
- on 21 July 2020, EU Heads of State or Government reached a political agreement on this package;
- on 10 November 2020, the European Parliament and the Council reached an agreement on the package;
- on 10 December 2020, EU Member States agreed in the European Council to finalize the adoption of the MFF Regulation and the Decision on own resources at Council level;
- on 17 December 2020, the Council decided to adopt the next long-term EU budget for the period 2021-2027. This was the last step in the adoption process following the vote in the European Parliament on 16 December, which approved the MFF Regulation by a significant majority;
- on 18 December 2020, the European Parliament and the Council reach an agreement on the Recovery and Resilience Mechanism, the main instrument at the heart of the NextGenerationEU initiative.

The EU's long-term budget and NextGenerationEU (NGEU - the temporary instrument designed to stimulate recovery) will form the largest incentive package ever funded in Europe. A total of EUR 2 018 billion (in current prices*) will help rebuild Europe in the post-COVID-19 pandemic. A reconstruction that will make Europe greener, more digital and more resilient.

The new long-term budget will strengthen flexibility mechanisms to ensure that it can meet unforeseen needs. It has been designed to respond not only to current realities but also to future uncertainties.

The final stage of the adoption of the next long-term EU budget was completed on 17 December 2020.

7. Conclusions

Next Generation I am a temporary recovery tool, worth over 800 billion Euros. It is intended to help repair the economic and social damage caused by the Coronavirus pandemic.

Next Generation I aim for Europe to be greener, more digital, more resilient after the Covid 19 Pandemic. The central element of the temporary recovery instrument is the Recovery and Resilience Mechanism. This mechanism aims to respond to the Pandemic by supporting European economies and societies to become more sustainable, resilient and better prepared for the challenges and opportunities offered by the transition to a green²⁸ and digital transition economy. The envisaged

²⁵ OJ C 373, 20.12.2013, p. 1.

²⁶ See Rita Calatozzolo, *op. cit.*

²⁷ https://ec.europa.eu/info/strategy/recovery-plan-europe_ro, consulted on 1.10.2021

²⁸ Rădulescu, D. M., *European Union - from traditions to fundamental rights. Affirmation of the fundamental human right to a healthy environment*, Pro Universitaria Publishing House, Bucharest, 2012, p. 5 and following.

funds will be directed to: European Regional Development Fund (ERDF), European Social Fund (ESF), European Aid Fund for the Most Deprived (FEAD).

These funds are available in the period 2021-2022.

Next Generation I will also supplement funding for Horizon 2020, InvestEU, rural development or the Fair Transition Fund (JTF).

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