


# The difference between compulsory and non-compulsory expenditure in the European Union

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## The difference between compulsory and non-compulsory expenditure in the European Union

The Treaty amending Certain Budgetary Provisions signed in Luxembourg on 22 April 1970 introduced some important changes. By giving the European Parliament a measure of budgetary power, it drew a distinction for the first time between compulsory expenditure and non-compulsory expenditure. Although Article 203 of the Treaty establishing the European Economic Community did not use the terms ‘compulsory expenditure’ and ‘non-compulsory expenditure’, it did distinguish expenditure ‘necessarily resulting from this Treaty or from acts adopted in accordance therewith’ from expenditure not ‘necessarily resulting from this Treaty or from acts adopted in accordance therewith’. This had significant institutional implications, as it determined the distribution of budgetary power between the Council and the European Parliament. As a result, the Council had the final say on compulsory expenditure, while the European Parliament had the final say on non-compulsory expenditure. The rationale behind the distinction lay in the fact that the authors of the Treaty wanted to protect legislative power, which was held by the Council, from interference from the European Parliament. They sought to prevent Parliament from using its budgetary power so that the situation would not arise whereby the legislative texts adopted by the Council could not be implemented because the appropriations involved had been rejected by Parliament. By giving the Council the final say on compulsory expenditure, they protected themselves against that risk.

Since the establishment of the 1975 budget, that obviously woolly distinction has been the source of recurrent conflict between the European Parliament and the Council. There have been many disputes caused by disagreements over whether expenditure should be classified as compulsory or non-compulsory. The Council has tried to extend the field of compulsory expenditure, over which it has the final say, and the European Parliament has tried to do the same for non-compulsory expenditure, which it can veto at final reading. It therefore became necessary to lay down rules which made it possible to distinguish clearly between the two categories of expenditure.

The Council, the European Parliament and the Commission therefore set about searching for a solution to their differences. The negotiations between them culminated in the Joint Declaration of 30 June 1982, which provided for the classification of expenditure and defined the concept of compulsory expenditure. Under that agreement, compulsory expenditure is defined as ‘such expenditure as the budgetary authority is obliged to enter in the budget to enable the Community to meet its obligations, both internally and externally, under the Treaties and acts adopted in accordance therewith’. Although the Declaration clarified the distinction between compulsory expenditure and non-compulsory expenditure, disputes continued; on several occasions, this led to the budgetary procedure remaining in a state of deadlock for several months (disputes before the Court of Justice, delays in the adoption of the budget, rejection of various budgets by the European Parliament). In order to overcome the difficulties arising from the varying interpretations of the definition, the Council, the European Parliament and the Commission have, since the late 1980s, periodically concluded interinstitutional agreements (in 1988, 1993, 1999 and 2006). These agreements set out the details of interinstitutional cooperation and the classification of compulsory expenditure and non-compulsory expenditure respectively, and as a result have incontrovertibly had a calming effect on the annual budget dialogue. Furthermore, the Interinstitutional Agreement of 6 May 1999 goes beyond this and proposes allocation by budget heading (and financial perspective subheading) for the various areas of expenditure. By way of illustration, compulsory

expenditure covers expenditure under the EAGGF, fisheries policy, international agreements concluded with third countries, certain compulsory staffing costs, legal expenses, damages and the monetary reserve. By contrast, the following are classified as non-compulsory expenditure: expenditure under the structural funds, financial support in the fields of energy, industry and research, and most operational expenditure. The Interinstitutional Agreement of 17 May 2006 renews the principle of allocation by budget heading and subheading, and redefines some of those headings.

Finally, thanks to these agreements, the interinstitutional tension which has sometimes caused difficulties in the operation of budgetary procedure has now been eased by the establishment of a framework for Community expenditure (the multiannual financial perspective) and by more frequent informal meetings between the Council, the European Parliament and the Commission throughout the budgetary procedure.