


# The budgetary procedure of the European Union

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## The budgetary procedure of the European Union

Originally, the European Parliament had no more than a consultative role in the budgetary procedure of the European Communities. However, the Treaties of 1970 and 1975 were to give it a genuine power of codecision in that area. Accordingly, the Luxembourg Treaty of 22 April 1970 accorded Parliament the ‘final say’ on non-compulsory expenditure and granted it the power to adopt the budget. The Brussels Treaty of 22 July 1975 introduced a further stage by granting it the power to reject the budget and by conferring on it alone the power to give a discharge to the Commission in respect of implementation of the budget. Since that time, the Council and the European Parliament have been the two arms of the budgetary authority.

Article 272 of the Treaty establishing the European Community (EC) sets out the respective powers of the institutions and the conduct of the budgetary procedure. It describes in great detail the ‘to-ing and fro-ing’ between the Council and the European Parliament, a procedure by which the two institutions are given an opportunity to reach agreement on the annual budget. Albeit detailed, the text still has shortcomings which have given rise to disputes between the two institutions and have, on a number of occasions, created a deadlock in the budget procedure lasting several months (legal action before the Court of Justice, delays in adopting the budget, rejection of the budget by Parliament). For instance, there were no specific criteria by which compulsory and non-compulsory expenditure could be distinguished; the circumstances in which the maximum rate of increase for non-compulsory expenditure (NCE) could be exceeded were unclear, and in particular, no provision was made for specific procedures to resolve disputes that might arise between the institutions. Therefore, in order to overcome the succession of budget crises, the Council, the European Parliament and the Commission instituted a dialogue and adopted the Joint Declaration of 30 June 1982 which foreshadowed the interinstitutional agreements of 1988, 1993, 1999 and 2006. Operating as a true interinstitutional reference framework, those agreements included special provisions to clarify the rules for applying the distinction between compulsory and non-compulsory expenditure and the maximum rate of increase, a framework for Community expenditure defined by the financial perspective, as well as a procedure for interinstitutional collaboration. Such interinstitutional collaboration, which substantially improved the budgetary procedure, was based on a conciliation arrangement between the three institutions which took the form of triologue and conciliation meetings held between the various stages of establishment of the budget.

The budgetary procedure as defined in Article 272 of the EC Treaty runs from 1 July to 31 December of the year preceding the budget year in question (the year  $n$ ). However, in order to make the most effective use of the time available to the Council and the European Parliament, the three institutions agreed to apply a *pragmatic timetable* as from the 1977 financial year. On the basis of that timetable, the procedure runs from mid-June to the end of December.

### The stages of the procedure

The procedure may be divided into three stages to cover the three names by which the budgetary document is successively known:

- establishment of the preliminary draft budget (PDB);
- establishment of the draft budget by the Council;
- ‘to-ing and fro-ing’ between Parliament and Council, which results in the adoption of the budget.

### Establishment of the preliminary draft budget (PDB)

Ahead of the annual budgetary procedure — before the PDB is presented to the Council — there is, in practice, a proper internal procedure for preparing the PDB within the Commission.

The cycle for year  $n$  starts with a policy orientation debate within the Commission in November or December of year  $n - 2$ . It continues with the Commission’s adoption in February of year  $n - 1$  of an annual policy strategy decision which establishes the policy priorities for the coming financial year. In February or March, the Council and the European Parliament also discuss the policy priorities.

Since the 1988 Interinstitutional Agreement, which introduced multiannual planning for Community expenditure, the Commission has, on an annual basis, made technical adjustments to the financial perspective on the basis of movements in prices and gross national product (GNP). Such adjustments are notified to the budgetary authority towards the end of February.

At the same time, the Commission establishes and notifies to all the institutions the maximum rate of increase for non-compulsory expenditure.

In late February/early March, the Commission's authorising departments submit quantified requests drawn up on the basis of the framework established by the annual policy strategy decision. In March, those requests are considered at budget hearings held between those departments and the Budget Directorate-General.

Introduced by the 1993 Interinstitutional Agreement, a **trialogue** meeting is held in April between the representatives of the European Parliament, the Council and the Commission in order to discuss budget priorities.

The Commission draws up its own estimates and, by early May, receives the other institutions' estimates.

Article 272 of the EC Treaty provides that the Commission must establish the PDB and place it before the Council between 1 July and 1 September. In practice, and on the basis of the *pragmatic timetable*, the Commission establishes the PDB in May and places it before the Council by 15 June at the latest.

### **Adoption of the draft budget by the Council**

Article 272 of the EC Treaty provides that the Council must examine the PDB and establish the draft budget between 1 September and 5 October.

In line with the *pragmatic timetable*, the Council receives the PDB on 15 June. In accordance with the internal procedure, the Budget Committee (made up of the financial affairs attachés in the Permanent Representations) and, subsequently, Coreper (the Committee of Permanent Representatives) consider the PDB. Parallel to that consideration, an ad hoc conciliation procedure results in a **trialogue** meeting between the President of the Budget Council, the Chairman of the European Parliament's Committee on Budgets and the Commission member with responsibility for the budget, and in a formal **conciliation** meeting between the Council, a Parliament delegation and a Commission representative. That conciliation procedure was introduced by the 1993 Interinstitutional Agreement, and relates in particular to the compulsory expenditure to be entered in the budget.

Acting by a qualified majority, the Council adopts the draft budget by 31 July at the latest and forwards it to Parliament in the first half of September.

### **'To-ing and fro-ing' between Parliament and Council**

First reading by the European Parliament

Under Article 272(4) of the EC Treaty, the European Parliament must give a first reading to the draft budget between 5 October and 19 November; it therefore has 45 days available to it for that purpose.

In practice, the draft budget is laid before Parliament by mid-September, from which point it also has 45 days available to it (up until the end of October) either:

- to give its **approval**, in which case the budget stands as finally adopted; or
- to decide **not to adopt amendments or propose modifications**, in which case the budget likewise stands as finally adopted; or
- to adopt, by an absolute majority of its Members, **amendments** to non-compulsory expenditure and, by

an absolute majority of the votes cast, to propose **modifications** to compulsory expenditure, in which case the draft budget must be forwarded to the Council for a second reading.

#### The Council's second reading

In accordance with Article 272(5) of the EC Treaty, the Council has a 15-day time limit as from 20 November within which to consider Parliament's proposals and to determine compulsory expenditure.

In line with the *pragmatic timetable*, that second reading usually takes place in mid-November after a **trialogue** and a **conciliation** meeting with a delegation from Parliament. The conciliation mechanism was introduced by the 1999 Interinstitutional Agreement so that the Council and the European Parliament might reach agreement on compulsory and non-compulsory expenditure in particular.

Following consideration of the draft budget, the Council may:

- **accept** all the amendments and all the modifications proposed by Parliament, in which case the budget is deemed to be adopted;
- decide **not to accept them**, in which case it decides as follows:
  - it amends by qualified majority the **amendments** (non-compulsory expenditure) adopted by Parliament;
  - for proposed **modifications** (compulsory expenditure), the Council's powers differ depending on whether the modifications proposed by Parliament contribute to increasing the total amount of expenditure of an institution. If the proposal does not have the effect of increasing the total amount of expenditure, the Council, acting by a qualified majority, must take the express decision to reject it; otherwise, the proposal stands accepted. If the effect is to increase the total amount of expenditure, the Council must secure a qualified majority to accept those proposals; otherwise, the proposal stands rejected.

Unless Parliament rejects the entire budget, the Council has the final say on compulsory expenditure. Therefore, at the end of the second reading, the amount of compulsory expenditure becomes final.

In early December, the draft budget reviewed by the Council is returned to the European Parliament.

#### Parliament's second reading

In accordance with Article 272(6) of the EC Treaty, the European Parliament likewise has a 15-day time limit as from 5 December within which to conduct a second reading, to set non-compulsory expenditure and to adopt the budget.

In practice, Parliament receives the draft budget in late November. As the Council has already had the final say on compulsory expenditure, Parliament devotes the first 15 days of December to a re-consideration of non-compulsory expenditure. It may, therefore, acting by a majority of its Members and three fifths of the votes cast, **amend** or **reject** the changes made by the Council to its **amendments** (non-compulsory expenditure) and adopt the budget accordingly.

If Parliament **does not act** in the 15 days after the Council has forwarded the draft budget to it, the budget is finally adopted.

Under Article 272(7) of the EC Treaty, when the procedure has been completed, the **President of the European Parliament** declares that the budget has been finally **adopted**. The budget becomes enforceable upon that declaration.

However, under Article 272(8) of the EC Treaty, the European Parliament, acting by a majority of its Members and two thirds of the votes cast, may, if there are 'important reasons', **reject** the draft budget and ask for a new draft to be submitted to it. That awkward situation has arisen on a number of occasions (for example, in December 1979 for the 1980 budget and in December 1984 for the 1985 budget), with the result

that the Community has found itself on 1 January of year  $n$  without a budget. To prepare for such an eventuality and to ensure continued Community action, Article 273 of the EC Treaty provides for a **provisional twelfths** system. Under that procedure, Community expenditure equivalent to not more than one twelfth of budget appropriations for the preceding financial year may be spent each month, but the arrangement may not have the effect of placing at the disposal of the Commission appropriations in excess of one twelfth of those provided for in the draft budget in the process of being adopted. Separately from that procedure, in practice the Commission also presents new budget proposals to the Council and Parliament immediately after the budget has been rejected. Those proposals are not 'new' as such; they amend the draft budget produced by the Council on its second reading. They are put to the two arms of the budgetary authority, which, fully appreciating the urgency of the situation, then endeavour to come to an agreement at a 'third reading', which is an informal arrangement since no provision is made for it in the Treaty.