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Working Group IX on Simplification

Subject: “Budget Procedure”
- paper by Mr Paolo Ponzano

Members of Working Group IX “Simplification” will find hereafter a paper by Mr P. Ponzano, representative of the Commission.



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Contribution to Working Group IX of the European Convention on Simplification

The budgetary procedure

COMMENTS OF P. PONZANO (REPRÉSENTATIVE OF THE COMMISSION)

ON WORKING DOCUMENT 12/02

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1. BACKGROUND

Since 1975, the budgetary procedure has evolved towards increased powers for the European Parliament (EP). This development was more about improving legitimacy than just about changing the procedures: EU citizens elect directly the EP; the share of expenditure on which the EP has been given the last word - non-compulsory expenditure - has steadily increased both in absolute and relative terms; in practice, the EP has now the last word on the budget as a whole since it can reject it.

The legislative procedure of co-decision has also been extended, along with the inclusion of amounts of reference for multi-annual co-decided programmes.

This note answers to the points raised in the Working Group's document no. 12 of 12 October 2002. It does not deal in detail on the own resources issue nor does it touch upon the completion of the budget procedure, namely the discharge and closure of accounts.

2. Answers to the specific points mentioned in Working Document 12/02 (pp. 7-8) on the budgetary procedure

The annual budgetary procedure can be streamlined by:

- Abolishing the distinction between compulsory and non-compulsory expenditure;
- Anchoring in the Treaties the principle of a multi-annual financial perspective (FP) to be agreed by both arms of the budgetary authority (BA).
- Reducing the stages of the procedure while ensuring a proper balance between the concerned Institutions.

2.1 Abolition of the classification of expenditure

The classification of expenditure – distinguishing between compulsory and non-compulsory expenditure - should be abolished, and the procedure currently used for deciding non-compulsory expenditure, i.e. the EP having the last word, should henceforth become the budgetary procedure for the entire budget. The appropriate budgetary procedure is described in Point 2.3 below.

The Treaty – or at least secondary law - should however include certain provisions to the effect that, during the budgetary procedure, legal commitments of the EU - in particular those creating legal obligations towards third parties such as the ones resulting from the CAP regulations in force - are guaranteed and honoured in the budget. The Commission, when presenting the draft budget would identify such a type of expenditure.

Provisions could also be introduced so that, after the Council reading, the EP could only alter this specific expenditure by an explicit vote at reinforced majority, or by the introduction of negative co-decision.

2.2 Integration of the principle of Financial Perspectives into the Treaty

The integration of the FP into the Treaty is a logical step because they are the central piece of the rules governing the EU budget. In addition, such incorporation is desirable from several points of view:

- *Budgetary discipline*: under the Own Resources Ceiling, the FP define an orderly development of expenditure for the duration of the period, leading to the choice of higher priorities in case of competing demands for limited appropriations. A framework integrated in the Treaty and agreed by co-decision would commit the two arms of the BA during the annual budgetary procedure.
- *Predictability*: the FP define both the rhythm of development of expenditure and, according to the degree of flexibility allowed, the margin of manoeuvre necessary to face unforeseeable needs;
- *Visibility and transparency*: the FP would lose their informal character and be more visible for European citizens. Their integration into the Treaty would send an important signal as FP shape the mid-term political priorities.

The Treaty would state the principle of an agreed multi-annual financial framework. The details could be laid down in a legislative instrument adopted for several years by co-decision.

The FP could be adopted as follows:

- Examination of a Commission proposal by the Council and Parliament, and definition of the position of each of the two arms of the BA;
- Concertation on the basis of the two respective positions of the BA, with the participation of the Commission, until an agreement is reached;
- Adoption by co-decision (majority of Members in the EP, QMV in the Council). In the absence of an agreement to renew the FP after expiry, the existing FP would be automatically extended: the ceilings would be updated on the basis of the average rate of increase observed during the period.

2.3 Proposals concerning the annual budgetary procedure, based upon simplified co-decision, and aiming to reach a decision at the end of the procedure

The voting rules in article 273 TEU, the shuttle between Council and EP each having two readings as well as the trilogues and conciliation meetings throughout the year make the current budgetary procedure long and complex. Likewise, the necessity to start the preparation of the budgetary procedure one year before its adoption - and before even knowing the implementation figures of the previous budget exercise - is not apt to improve the accuracy of the estimates. Therefore, simplification seems absolutely necessary.

Compared to the present situation, the four proposals put forward in the WD offer a simplified budgetary procedure, with the following drawbacks:

- (1) The first proposal alters the balance of powers in favour of the EP, since the Council only gives an opinion after the EP first reading. The margin for a real budgetary negotiation would therefore be reduced.
- (2) The second option (i.e., opinion of Council on Commission's draft budget, followed by EP's decision) would prevent any dialogue between the two arms of the BA during the budgetary procedure, in an even more comprehensive manner than option 1. The Council would have to give its opinion without knowing the Parliament's position, and there would be little opportunity to negotiate.
- (3) The Commission would accept the third option (i.e., negative co-decision), although it would raise questions regarding the inter-institutional balance in budgetary issues.
- (4) The fourth option (i.e., simplified co-decision with binding and realistic deadlines) does not, in the Commission's view, constitute an alternative to the existing budgetary procedure. Rather, it should be considered as a complementary element to ensure both a smooth budgetary procedure and the timely adoption of the final decision.

The option favoured by the Commission would include elements from the first and fourth option.

Given the proposed abolition of the distinction in the classification of expenditure (and with it the maximum rate of increase for NCE), the safeguard clause to cover legal commitments of the EU, and the inclusion of the principle of a financial framework in the Treaty, the annual budget procedure would be as follows:

- (a) a proposal from the Commission that becomes the draft budget,
- (b) a first reading of the draft budget by the EP followed by
- (c) a reading by the Council and finally
- (d) adoption by the EP.

According to this option, the EP would be in the position to take the Council's proposals into account when adopting the budget¹. Moreover, the legislative instrument for the implementation of the FP could include a provision whereby the agreement of the two arms of the budget authority is required in the case of an abnormal growth of expenditure in relation to the general economic trend.

Reducing the number of readings from the current four to three, starting with the EP, would also allow for the budget procedure to start later in the year. This would enable the Commission to better take account of more recent developments and forecasts, and thereby to produce more precise estimates of budgetary needs.

¹ Compared to the second option (with only two readings), this option offers the possibility to hold two phases of concertation, a first one before the presentation of the draft budget and concerning orientations, the second one after the Council reading.

2.4 The resources' side of the budget

The idea that Council would have the last word on the annual amount of revenues while the Parliament would have the last word on the annual amount of expenditure would in fact represent the institutional status-quo as regards the revenue side of the budget.

Indeed, current responsibilities for providing revenue and deciding upon expenditure fall apart. The level and the composition of revenue are predetermined by the own resources decision, in which Parliament has no say, and the strict application of the budget equilibrium rule, easily guaranteed by the marginal GNP resource, leave no margin to the Budget Authority as regards the annual amount of resources to be called in to cover the agreed expenditure. This explains why the Treaty comprises no specific provision on the adoption of the revenue side of the budget.

A strategy should be devised in which the BA is given a useful income responsibility. The public perception of the budget and the democratic responsibility of the Union can clearly win to profile by granting the BA full budgetary responsibility without a complete overhaul of the existing regulations and Treaty provisions.

A room for manoeuvre in the adoption of the annual budget, in compliance with the principle of a balanced budget¹, could be defined in the Own Resources Decision (ORD). Furthermore, it could be envisaged to associate the EP more closely to the process of adoption of the ORD itself.

2.5 The integration in the Treaty of the principles mentioned in the Inter-institutional Agreement of 1999

Only some general principles contained in the IIA could be brought into the Treaty. For example, the principle according to which any appropriation entered in the budget for any Community action shall require the prior adoption of a basic act (Point 36, §1 of the IIA of 6 May 1999) could be introduced in the Treaty, with the possibility of relevant exceptions as put forward by the Financial Regulation.

¹ *'the revenue and expenditure shown in the budget shall be in balance'* (TEC, article 268, §3)