

**COUNCIL REGULATION (ECSC, EEC, EURATOM) No 2049/88**

of 24 June 1988

**amending the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Coal and Steel Community, and in particular Article 78h thereof,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 209 thereof,

Having regard to the Treaty establishing the European Atomic Energy Community, and in particular Article 183 thereof,

Having regard to the proposal from the Commission <sup>(1)</sup>,

Having regard to the opinion of the European Parliament <sup>(2)</sup>,

Having regard to the opinion of the Court of Auditors <sup>(3)</sup>,

Whereas the conciliation provided for in the Joint Declaration of 4 March 1975 of the European Parliament, the Council and the Commission <sup>(4)</sup> took place in a Conciliation Committee;

Whereas the Financial Regulation of 21 December 1977 <sup>(5)</sup>, as last amended by Regulation (ECSC, EEC, Euratom) No 1600/88 <sup>(6)</sup>, must be amended to give effect to the conclusions of the Brussels European Council of 11 to 13 February 1988 concerning stricter annual management of appropriations, the financing arrangements for the common agricultural policy and the possibility of entering a 'negative reserve' when the budget is established;

Whereas, in the interests of improved budgetary management and greater transparency of appropriations, differentiated appropriations unused at the end of the financial year should as a rule lapse; whereas, however, the Commission should be empowered to effect some carry-overs on the basis of specific criteria; whereas certain appropriations which have been released from commitment may be made available again only on the basis of specific criteria and only after a Commission decision;

Whereas the strengthening of the principles of annuality cannot call into question the achievement of the objectives fixed for the Communities' policies;

Whereas the Financial Regulation must reflect the arrangements for financing the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) to take account of the amendments to Council Regulation (EEC) No 729/70 of 21 April 1970 on the financing of the common agricultural policy <sup>(7)</sup>, as last amended by Regulation (EEC) No 2048/88 <sup>(8)</sup>;

Whereas an appropriate provision must be inserted to allow a negative reserve limited to a specific amount to be entered in the budget,

HAS ADOPTED THIS REGULATION:

*Article 1*

The Financial Regulation of 21 December 1977 is hereby amended as follows:

1. In Article 1, the following paragraph 3a is inserted:

'3a. The legal commitments entered into for measures extending over more than one financial year shall contain a time limit for implementation which must be specified to the recipient in due form when the aid is granted.'

This time limit shall be determined with due regard to the need for multiannual implementation of the operations financed and the specific conditions of implementation in relation to the various spheres of intervention.

The Commission may, in special circumstances, adjust the time limit for implementation of these commitments, on the basis of appropriate proof supplied by the recipients.'

2. In Article 6, point 2 is replaced by the following:

'2. In the case of budget headings where a distinction is made between commitment appropriations and payment appropriations, commitment appropriations and payment appropriations which have not been used at the end of the financial year

<sup>(1)</sup> OJ No C 99, 14. 4. 1988, p. 9.

<sup>(2)</sup> Opinion delivered on 16 June 1988 (not yet published in the Official Journal).

<sup>(3)</sup> OJ No C 166, 25. 6. 1988, p. 3.

<sup>(4)</sup> OJ No C 89, 22. 4. 1975, p. 1.

<sup>(5)</sup> OJ No L 356, 31. 12. 1977, p. 1.

<sup>(6)</sup> OJ No L 143, 10. 6. 1988, p. 1.

<sup>(7)</sup> OJ No L 94, 28. 4. 1970, p. 13.

<sup>(8)</sup> See page 1 of this Official Journal.

for which they were entered shall, as a rule, lapse. However, they may, by decision of the Commission taken not later than 15 February, be carried over to the next financial year only, in accordance with the following criteria:

(a) in the case of commitment appropriations:

- amounts which relate to operations for which preliminaries have been virtually completed at 31 December but for which accounting commitments have not yet been made; these amounts must in principle be committed by 31 March of the following year,
- amounts which are necessary when the Council has adopted a basic instrument towards the end of the financial year and the Commission has been unable to commit the appropriations provided for this purpose in the budget by 31 December;

(b) in the case of payment appropriations:

- amounts needed to cover existing commitments or relating to commitment appropriations carried over, when the appropriations provided for the headings concerned in the budget for the following financial year do not cover requirements. In exercising its powers to implement the budget, the Commission shall, depending on management requirements, endeavour to use first the appropriations authorized for the current financial year and not use the appropriations carried over until the former are exhausted.

The Commission shall inform the budgetary authority by 15 March at the latest of the decision taken and state how the agreed criteria were applied to each carry-over.'

3. In Article 6, point 6 is replaced by the following:

- '6. When commitments in budget headings where there is a distinction between commitment appropriations and payment appropriations are cancelled — as a result of total or partial non-implementation of the projects for which they were earmarked — in any financial year after that in which the commitment appropriations were entered in the budget, the appropriations concerned shall, as a rule, lapse.

However, the commitment appropriation corresponding to the amount of the commitment cancelled may, exceptionally, be made available again when it is essential to carry out the programme originally planned, unless the budget

for the current financial year contains funds available for this purpose.

At the beginning of each financial year the Commission shall therefore examine the cancellations which have taken place in the previous financial year and assess, in the light of requirements, the need for making the appropriations available again.

The Commission shall take this decision by 15 February of each financial year.

The Commission shall inform the budgetary authority by 15 March at the latest of the decision taken and state the reasons for making these appropriations available again.'

4. In Article 15, the following paragraph is inserted:

'4a. The Commission section may include a "negative reserve" limited to a maximum amount of 200 million ECU. This reserve, which shall be entered in a separate chapter, may include both appropriations for commitments and appropriations for payments.

This reserve must be drawn upon before the end of the financial year by means of transfer in accordance with the procedure laid down in Article 21.'

5. In point 2 of Article 73, the final indent is replaced by the following:

'— appropriations carried over under Article 6.'

6. In point 3 of Article 73, the fourth and fifth indents are replaced by the following:

'— the commitment appropriations and payment appropriations carried over under Article 6.'

7. In point 4 of Article 73, the first indent is replaced by the following:

'— the amount of appropriations carried over, a distinction being made between commitment appropriations, payment appropriations and non-differentiated appropriations.'

8. In point 4 of Article 73, the fifth indent is deleted.

9. In Article 88 (3), the final subparagraph is replaced by the following:

'The payment appropriations represent the upper limit of expenditure which may be paid or authorized for payment during each financial year to cover commitments entered into during the current year or earlier financial years.'

10. In Article 88, paragraph 4 is deleted.

11. Article 98 is replaced by the following:

'Article 98

Expenditure shall be booked to the accounts for a financial year on the basis of the advances paid by the

Commission to the Member States during that year in accordance with Article 5 of Regulation (EEC) No 729/70, provided that notification of their commitment and authorization have reached the accounting officer not later than 31 January of the following year.'

12. Article 99 is replaced by the following:

*'Article 99*

1. The object of the clearance of the accounts provided for in Article 5 (2) (b) of Regulation (EEC) No 729/70 shall be to determine the amount of expenditure effected in each Member State during the financial year in question which must be recognized as being chargeable to the EAGGF.

2. The schedule for the clearance of the accounts is laid down in Regulation (EEC) No 729/70.

3. The outcome of the clearance decision, i.e. any discrepancy which may exist between the total expenditure booked to the accounts for a financial year pursuant to Articles 97 and 98 and the total expenditure recognized as allowable by the Commission when clearing the accounts shall be booked, under a single article, as additional expenditure, or a reduction in expenditure.'

13. In Article 100 (1), '1 April of the following financial year' is replaced by '1 February of the following financial year'.

14. In the second subparagraph of Article 101 (1) and the first subparagraph of Article 101 (2), '31 March of the following financial year' is replaced by '31 January of the following financial year'.

15. In Article 101, the following paragraph 3 is inserted:

'3. Transfers relating to the "monetary reserve" which is entered in the "provisional appropriations" chapter of the budget and the entry, use and financing conditions of which are determined by, respectively, Council Decision 88/377/EEC of 24 June 1988 concerning budgetary discipline(\*) and Council Decision 88/376 /EEC/Euratom of 24 June 1988 on the system of the Communities' own resources (\*\*) and the provisions adopted under the latter shall be decided upon by the budgetary authority in accordance with the second subparagraph of Article 21 (2) of this Regulation.

(\*) OJ No L 185, 15. 7. 1988, p. 29.

(\*\*) OJ No L 185, 15. 7. 1988, p. 24.'

*Article 2*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Luxembourg, 24 June 1988.

*For the Council*

*The President*

M. BANGEMANN