

EUROPEAN PARLIAMENT

2004



2009

Session document

FINAL
A6-0144/2006

26.4.2006

REPORT

on the conclusion of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management
(2006/2028(ACI))

Committee on Constitutional Affairs

Rapporteur: Sérgio Sousa Pinto

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on the conclusion of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management (2006/2028(ACI))

The European Parliament,

- having regard to the draft Interinstitutional Agreement on budgetary discipline and sound financial management annexed to this decision,
- having regard to the report of the Committee on Budgets¹,
- having regard to Rule 120(1) of its Rules of Procedure and to Section IV, points (1) and (2), and Section XVIII, point (4), of Annex VI thereto,
- having regard to the report of the Committee on Constitutional Affairs (A6-0144/2006),

Whereas,

- A. the European Parliament, the Council and the Commission have concluded negotiations on a new Interinstitutional Agreement on budgetary discipline and sound financial management for the period 2007-2013 (hereinafter referred to as ‘the draft agreement’),
- B. the report of the Committee on Budgets gives a positive assessment of the political and financial choices made in the draft agreement,
- C. the draft agreement does not seem to raise any problems of incompatibility with primary European law and fully respects the budgetary prerogatives of Parliament,
- D. the draft agreement does not seem to conflict in any respect with Parliament's Rules of Procedure; however, the question may be raised as to whether it would not be prudent to make some amendments to the Rules of Procedure, in particular to Annex IV thereto, in order to allow Parliament's involvement in a number of specific procedures provided for in the draft agreement to take place under the best possible conditions; this could in particular be the case as regards the procedures concerning:
 - adjustments connected with excessive government deficits,
 - revision of the financial framework,
 - mobilisation of the Emergency Aid Reserve,
 - mobilisation of the European Union Solidarity Fund,
 - mobilisation of the Instrument of Flexibility,
 - mobilisation of the European Globalisation Adjustment Fund,
 - adjustment of the financial framework to cater for enlargement,

¹ Report Böge (A6-0000/2006)

1. Approves the text of the draft agreement annexed to this decision;
2. Asks its competent committee to examine the extent to which it would be appropriate to modify the Rules of Procedure, and in particular Annex IV thereto, so as to enable Parliament to participate in the specific procedures provided for in the draft agreement under the best possible conditions;
3. Welcomes the decision of the European Council to invite the Commission to undertake a full, wide-ranging review of all aspects of EU spending and resources; insists that, as the budgetary partner of the Council, it intends to participate in this review with the aim of reaching agreement on a new, comprehensive financial system which is fair, buoyant, progressive and transparent and which equips the Union with the ability to match its aspirations with own resources rather than contributions by the Member States;
4. Confirms its opinion that all future financial frameworks should be established for a period of five years compatible with the mandates of the Parliament and the Commission;
5. Recalls that it will be necessary to introduce secure transitional arrangements in the event that the Constitutional Treaty comes into force before the end of the new financial framework;
6. Instructs its President to forward this decision to the Council and Commission, for information.

EXPLANATORY STATEMENT

1. The content of the future report of the Committee on Constitutional Affairs on the Interinstitutional Agreement

The content of this report on the new Interinstitutional Agreement on Budgetary Discipline (IIA), which includes the new Financial Framework (FF - new terminology for the until now called Financial Perspective) for the period 2007-2013, is to analyse its institutional and procedural implications and in particular to judge of its compatibility with primary law and to evaluate the eventual need for modifications of the rules of Procedure to allow for its smooth implementation. It is not for the Committee on Constitutional Affairs to pronounce itself on the merits or the opportunity of the political and budgetary choices it expresses, neither on the expenditure amounts it stipulates. This is the content of the report of the Committee on Budgets, which rapporteur, Mr Reimer Böge, played an essential role during the negotiations with the Council and the Commission. To assist him in those hard negotiations, our committee produced a Working Document¹

2. Compatibility of the IIA with the Treaties and the Rules of Procedure

The text agreed by the three Institutions rests in general in the IIA of 1999 still in place, but it introduces several modifications and innovations. One can *prima facie* say that the new IIA does not raise specific problems of compatibility with primary law that should lead its rejection. Also, one does not in general see conflicting points with the present Rules of Procedure of the Parliament. However, the report raises the question of whether it would be convenient to introduce some modifications in the Rules of Procedure, in particular in what concerns its Annex IV, in order to take duly in consideration several specific procedures foreseen in the IIA. This could namely be the case of the procedures concerning:

- adjustments connected with excessive government deficit (point 20)
- the revision of the financial framework, both until or above 0, 03% of the GNI (Points 21 to 23)
- the mobilisation of the Emergency Aid Reserve (point 25)
- the mobilisation of the European Union Solidarity Fund (Point 26)
- the mobilisation of the Instrument of Flexibility (Point 27)
- the mobilisation of the European Globalisation Adjustment Fund (Point 28)
- the adjustment of the financial framework to cater for enlargement (Point 29)

Consequently, the report invites the competent committee of the Parliament to examine to what extent it will be necessary to modify the Rules of Procedure, in particular its Annex IV, so as to enable Parliament to participate in the specific procedures provided for in the IIA under the best possible conditions.

¹ Only available in English

3. The acceptance of the MRI

One of the points that caused concerns to Parliament during the negotiations was Point 13, concerning the acceptance by the institutions of the maximum rates of increase (MRI) deriving from the budget adopted within the ceilings of the financial framework.

The Working Document mentioned above suggested to improve the text in order to stress how essential this point is for the Parliament. In fact, the Council has sometimes in the past been reticent to accept a budget that respects the ceilings of the FP but goes beyond the MRI. It is true that if the Institutions wish to exceed the MRI they must follow the procedure to fix a new MRI foreseen in article 272, paragraph 9 of the EC Treaty, for the IIA does not modify or derogate the Treaties. The goal of this point is precisely to state the engagement of the institutions to do so in order to comply with the FF they agreed on, and this is essential for Parliament.

The rapporteur would prefer that it be clear in the final text that the refusal of one of the Institutions to proceed in accordance with this clause would constitute a serious breach of the engagements assumed by the institutions in the IIA, and consequently of the principle of loyal cooperation, which would put the whole IIA into question. An alternative could be a declaration (a joint one or even an unilateral declaration of the Parliament), stating that the institutions (or the Parliament) consider(s) the non compliance with this clause as a serious breach of the engagements taken by the institutions in the IIA that justifies its denunciation (or in any way expresses that the Parliament considers itself no longer bind by the IIA should that breach occur). However, the final text was improved and it can be considered acceptable from the point of view of the Parliament.

4. The wide-range mid-term review

In a declaration annexed to the IIA the Commission undertakes to present a report in 2008/9 on a wide ranging review of all aspects of the financial system of the EU (spending and resources), according to the conclusions of the European Council of December 2005.

This raises the question of the convenience to foresee a specific procedure for this review, notably to preserve the role of EP. This review will be much more than a simple revision of the FF, it may imply a complete overhaul of the present IIA structure and it will very likely imply also proposals for modification of the present Own Resources system. Parliament should be associated to this procedure since its beginning, eventually through an interinstitutional working group. Parliament also insisted that the principle of the organisation of a Conference with national Parliaments and the European Parliament on this subject (National Parliaments have the final say in what concerns the modification of the Own Resources decision) be recognized in the text.

The text of the declaration on the review of the financial framework annexed to the IIA is a step in the right direction. However, it is not fully satisfactory from Parliament's point of view, hence the reaffirmation of its intentions in paragraph 3 of the report. Anyhow, one should bear in mind that, whatever the outcome of this process might be, any modification of the present IIA will have to be incorporated in a new IIA, which must be approved by

all the institutions by a similar procedure to the present one.

5. The duration of the Financial Framework

This question of the wide ranging review of the IIA may eventually be associated with the question of the duration of the FF, as in 2009 there will be a new Parliament and a new Commission. For a long time, Parliament has insisted that the financial framework should as much as possible match the mandate of the Parliament and of the Commission. This would mean a duration of the FF of 5 years, starting from the year of the European elections (N) + 1 or +2. As such, every Parliament and every Commission would have its word to say concerning the financial priorities of their mandates (or a substantial part of it). Not so in the present system, in which from time to time a Parliament is completely bind by the FF adopted by its predecessor and will not even have a word to say concerning the following FF. The same goes for the Commission. To avoid this situation - elected representatives of the citizens should be responsible for the main financial decisions taken during its mandate, in order to be accountable towards their electorate - the Constitution had foreseen (article III-402, paragraph 1) that the Multiannual Financial Framework would have a duration of "at least 5 years" (a certain flexibility is advisable in these matters).

The resolution on Policy Challenges and Budgetary Means of the enlarged Union¹ although reminding in principle this position of the Parliament², finally accepted, due to practical reasons, for this IIA the proposed duration of seven years, considering that "*... a shorter time framework would be technically and politically impractical, (...) a longer financial perspective will contribute to the stability of the system and facilitate the programming of the cohesion policy and of other financial instruments of the common budget*"³.

Nevertheless, in that resolution the Parliament requests "*...its delegation negotiating the Interinstitutional Agreement to insist that the future Interinstitutional Agreement include provisions guaranteeing a longer (up to 7 years) duration for multi-annual programmes, compared to the duration of the future Financial Perspective, in particular for major policies such as agricultural policy, structural and cohesion policy and research*".

As an alternative, the IIA could foresee a special procedure for revision of the FF at the time of the election of a new Parliament (and the entering into function of a new Commission).

Despite the efforts of Parliament's negotiators, the final text is not fully satisfactory on this question. It may well be that concerning this particular financial framework, the wide-range review foreseen will coincide with the mandate of the Parliament elected in 2009

¹ Adopted on 08 06 2005, A6-153/05

² Idem, paragraph 33: "33. Notes that the Commission has proposed a financial framework of 7 years' duration; reiterates, for reasons of democratic responsibility and accountability, its position in favour of a parallelism between the duration of the Financial Perspective and the five-year mandates of the European Parliament and of the Commission, and recalls that the Constitution provides for a duration for the future MFF of a minimum of five years, which would allow for co-ordination with the terms of office of the Commission and of the European Parliament..."

³ Idem, paragraph 34.

and the new Commission. However, paragraph 4 of the report clearly reaffirms the position of Parliament on this matter.

6. Some questions concerning majorities

6.1. *The majorities for revising the financial framework*

Point 22 of the draft IIA also raises some controversial questions that should be addressed in the future. Apart from some possible improvements of the drafting from a legal point of view - namely in what concerns the procedure and the majorities for the adoption of revision up to or superior to 0,03% of the GNI (paragraphs 2 and 3 of Point 22) -, the rapporteur considers that requiring unanimity in the Council for any review of the FF above 0,03% of the Community GNI is excessive. The difficulties in obtaining an agreement in the Council during last year showed the limits of this method of decision. We are talking about reviewing the existing FF, not replacing it by a new one, and experience shows how unlikely a review in those terms it is. The wisest thing to do would be to keep the particular procedure of decision foreseen in Point 3 of the IIA (qualified majority in the Council and absolute majority of members and 3/5 of the votes cast in the Parliament) to any review of the IIA (up to or above 0,03%), and propose a simplified procedure for revisions concerning small amounts (up to xxx millions), in which, for ex., the Council would decide on compulsory expenses, and the Parliament on non-compulsory expenses, according to the rules foreseen in article 272 of the Treaty and the Financial Regulation. This could even be accompanied by a tighter definition on Point 21 of the circumstances in which such a revision can take place. The council did not accept this logic this time, but Parliament could consider this proposal in a future revision of the IIA.

6.2. *The convenient majority for Parliament to express its consent to commit politically to the IIA*

In its resolution of last June that defines its position for the negotiations on the new IIA, the Parliament considered that, due notably to the "utmost political importance" of the next Financial Perspective, it "*should only consent to commit itself in an agreement on the next Financial Perspective if this is approved by a majority of its members*".¹

It seems perfectly legitimate that the European Parliament wishes to gather a strong majority of its members to engage itself politically in an agreement with the other institutions that will to some extent result in a self-restriction in the use of the prerogatives that the Treaties vested on him. To this extent it would be convenient that this political will of the Parliament be translated in the text of the agreement through a specific clause or in a declaration in which the other institutions acknowledge this position stated by the Parliament.

Although the final text of the IIA does not refer to this, the rapporteur considers that, should the Parliament insist in its position, the fact that several clauses of the

¹ Adopted on 08 06 2005, A6-153/05, paragraph 11.

text of the precedent IIA, as of the present agreed one (notably concerning its revision, the mobilisation of several of its mechanisms etc.), already require specific procedures of decision and majorities that are not foreseen in the Treaties seem to indicate that it would be entitled to do so.

7. Transitional provisions in the event that the Constitution enters into force

The report stresses (Paragraph 5) the convenience of foreseeing a specific transitional system for the eventual entrance into force of the Constitutional Treaty during the period of this FF. In fact, the Constitutional Treaty deeply modifies the rules on own resources, financial framework and annual budgetary procedure, as well as their interrelation. In the rapporteur's opinion, the IIA should address, for instance, the question of how the Institutions should proceed to pass from the IIA to the future European law containing the Multiannual Financial Framework, etc. The new Point 4 of the IAA, concerning future Treaty revisions with budgetary consequences, constitutes a positive step, but it is not fully satisfactory.

8. Other questions

The rapporteur congratulates himself with the progress made during the negotiations, thanks to the efforts of the Parliament's negotiators, on other questions, notably:

- democratic scrutiny and coherence of external actions, namely in what concerns the budgetary implementation of some of the new instruments foreseen in the field of external relations and development, in order to preserve the prerogatives of Parliament (namely the two declarations on democratic scrutiny and coherence of external actions) matter);
- the financing of agencies (and European schools), particularly in what concerns the need of defining mechanisms to ensure that the eventual future agencies will be given the necessary financial means to pursue their missions without reducing the funds available for the programs (Point 47 of the IIA);
- the need to ensure an adequate funding of eventual additional expenditure on the area of freedom, security and justice (i.e. the funding of Europol by the EU budget) that ensures Parliament's rights (Declaration of the European Parliament);
- the review of the Financial Regulation (Point 45 and declarations two annexed to the IIA).

**ANNEX: INTERINSTITUTIONAL AGREEMENT BETWEEN THE EUROPEAN
PARLIAMENT, THE COUNCIL AND THE COMMISSION ON BUDGETARY
DISCIPLINE AND SOUND FINANCIAL MANAGEMENT**

PROCEDURE

Title	Conclusion of the Interinstitutional Agreement (IIA) on budgetary discipline and sound financial management
Procedure number	2006/2028(ACI)
Committee responsible Date announced in plenary	AFCO 27.10.2005
Rapporteur(s) Date appointed	Sérgio Sousa Pinto 17.11.2005
Previous rapporteur(s)	
Discussed in committee	22.2.2006 6.4.2006
Date adopted	25.4.2006
Result of final vote	+ 11 - 0 0 1
Members present for the final vote	James Hugh Allister, Jens-Peter Bonde, Richard Corbett, Jean-Luc Dehaene, Andrew Duff, Maria da Assunção Esteves, Ingo Friedrich, Bronisław Geremek, Sylvia-Yvonne Kaufmann, Jo Leinen, Íñigo Méndez de Vigo
Substitute(s) present for the final vote	Jacek Protasiewicz, György Schöpflin
Substitute(s) under Rule 178(2) present for the final vote	
Date tabled	26.4.2006
Comments (available in one language only)	