



EUROPEAN PARLIAMENT

2009 - 2014

Plenary sitting

A7-0337/2013

18.10.2013

REPORT

on conclusion of an interinstitutional agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (2011/2152(ACI))

Committee on Constitutional Affairs

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PROPOSAL FOR A EUROPEAN PARLIAMENT DECISION

on conclusion of an interinstitutional agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management (2011/2152(ACI))

The European Parliament,

- having regard to the draft interinstitutional agreement between the European Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management,
 - having regard to Articles 310, 311, 312 and 323 of the Treaty on the Functioning of the European Union (TFEU),
 - having regard to its resolution of 23 October 2012 in the interests of achieving a positive outcome of the Multiannual Financial Framework 2014-2020 approval procedure¹,
 - having regard to the conclusions of the European Council adopted on 8 February 2013,
 - having regard to its resolution of 13 March 2013 on the European Council conclusions of 7-8 February concerning the Multiannual Financial Framework²,
 - having regard to the conclusions of the European Council adopted on 28 June 2013,
 - having regard to its resolution of 3 July 2013 on the political agreement on the Multiannual Financial Framework 2014-2020³,
 - having regard to Rule 127(1) of its Rules of Procedure,
 - having regard to the report of the Committee on Constitutional Affairs and the opinion of the Committee on Budgets (A7-0337/2013),
- A. Whereas a political agreement was reached on 27 June 2013 at the highest political level between the European Parliament, the Irish Presidency of the Council and the Commission on the Multiannual Financial Framework (MFF) for 2014-2020 and on a new interinstitutional agreement;
- B. Whereas new provisions relating to the MFF as introduced by the Treaty of Lisbon, in particular with regard to the greater role and prerogatives granted by them to the European Parliament, were used for the first time;
- C. Whereas it is appropriate to adopt, in the context of the MFF, an interinstitutional agreement for implementing budgetary discipline and for improving the functioning of the annual budgetary procedure and cooperation between the institutions on budgetary matters;

¹ Texts adopted, P7_TA(2012)0360.

² Texts adopted, P7_TA(2013)0078.

³ Texts adopted, P7_TA(2013)0304.

1. Accepts the political agreement reached on the MFF for 2014-2020 and on a new interinstitutional agreement; Is determined to make full use, in the course of forthcoming budgetary procedures, of the new instruments established, notably as regards flexibility;
2. Highlights that the long and laborious process of negotiations, both within Council and at interinstitutional level, together with its outcome constitute an unsatisfactory implementation of the new provisions relating to the MFF as introduced by the Treaty of Lisbon, in particular with regard to the greater role and prerogatives granted by them to the European Parliament;
3. Denounces the negotiating strategy of the Council, in which its negotiators were bound by conclusions of the European Council of 8 February 2013 in matters falling under the ordinary legislative procedure such as detailed allocation criteria, envelopes by programmes or beneficiary, as well as discretionary financial allocations adjusting the level of national returns from the Union budget, thus preventing both legislative arms from conducting proper negotiations;
4. Regrets, moreover, that the numerous contacts and meetings held over the past few years between its delegation and the successive presidencies of the Council had no impact on the spirit, calendar or content of the negotiations or on the Council's position, including the need to distinguish the legislative from the budgetary aspects of the agreement on the MFF;
5. Concludes that, in line with Article 312(5) TFEU, alternative working arrangements should be defined in the future to facilitate the adoption of the MFF, ensuring that the Parliament's legislative and budgetary powers, as granted by the TFEU, are fully respected, that Council actually negotiates any so-called 'MFF-related' parts of the legal bases for the programmes also, and that the European Council refrains from acting as a legislator, in breach of the TFEU;
6. Calls for its Committee responsible for Budgets, in cooperation with its Committee responsible for Constitutional Affairs, to draw the necessary conclusions and come forward with new proposals, in due time ahead of the 2016 post electoral revision, on the modalities of MFF negotiations, so as to ensure the democratic and transparent nature of the whole budget setting process.
7. Approves conclusion of the agreement below;
8. Instructs its President to sign the agreement with the President of the Council and the President of the Commission and arrange for its publication in the Official Journal of the European Union;
9. Instructs its President to forward this decision, including its annex, to the Council and the Commission for information.

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

THE EUROPEAN PARLIAMENT, THE COUNCIL OF THE EUROPEAN UNION AND THE
EUROPEAN COMMISSION,

hereinafter referred to as the institutions,

HAVE AGREED AS FOLLOWS

1. The purpose of this Agreement, adopted in accordance with Article 295 of the Treaty on the Functioning of the European Union (TFEU), is to implement budgetary discipline and improve the functioning of the annual budgetary procedure and cooperation between the institutions on budgetary matters as well as to ensure sound financial management.
2. Budgetary discipline in this Agreement covers all expenditure. The Agreement is binding on all the institutions for as long as it is in force.
3. This Agreement does not alter the respective budgetary powers of the institutions as laid down in the Treaties, in Council Regulation (EU, Euratom) No ...^{1*} (the "MFF Regulation") and in Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council ² (the "Financial Regulation").
4. Any amendment of this Agreement requires the common agreement of all the institutions.

¹ Council Regulation (EU, Euratom) No ... of [. . . 2013] laying down the Multiannual Financial Framework for the years 2014-2020 (OJ L ..., p. .)

* OJ: Please insert the number and date of the Regulation contained in doc st11791/13 and complete the footnote reference.

² Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ L 298, 26.10.2012, p. 1).

5. This Agreement is in three parts:
- Part I contains complementary provisions related to the multiannual financial framework (MFF) and provisions on special instruments not included in the MFF.
 - Part II relates to interinstitutional cooperation during the budgetary procedure.
 - Part III contains provisions related to the sound financial management of Union funds.
6. This Agreement enters into force on ...* and replaces the Interinstitutional Agreement of 17 May 2006 between the European Parliament, the Council and the Commission on budgetary discipline and sound financial management¹.

* OJ: please insert the date of the entry into force of the Regulation contained in doc st11791/13.

¹ OJ C 139, 14.6.2006, p. 1.

PART I

MFF AND SPECIAL INSTRUMENTS

A. PROVISIONS RELATED TO THE MFF

7. Information relating to operations not included in the general budget of the Union and to the foreseeable development of the various categories of the Union's own resources is set out, by way of indication, in separate tables. That information shall be updated annually together with the documents accompanying the draft budget.
8. The institutions shall, for the purposes of sound financial management, ensure as far as possible during the budgetary procedure and at the time of the budget's adoption that sufficient margins are left available beneath the ceilings for the various headings of the MFF, except in the sub-heading "Economic, social and territorial cohesion".

Updating of forecasts for payment appropriations after 2020

9. In 2017, the Commission shall update the forecasts for payment appropriations after 2020. That update shall take into account all relevant information, including the real implementation of budget appropriations for commitments and budget appropriations for payments, as well as the implementation forecasts. It shall also consider the rules designed to ensure that payment appropriations develop in an orderly manner compared to commitment appropriations and the growth forecasts of the Union's Gross National Income.

B. PROVISIONS RELATED TO THE SPECIAL INSTRUMENTS

NOT INCLUDED IN THE MFF

Emergency Aid Reserve

10. When the Commission considers that the Emergency Aid Reserve needs to be called on, it shall present to the European Parliament and the Council a proposal for a transfer from the Reserve to the corresponding budgetary lines.

Any Commission proposal for a transfer from the Reserve, however, shall be preceded by an examination of the scope for reallocating appropriations.

In the event of disagreement, a trilogue procedure shall be initiated.

Transfers from the Reserve shall be made in accordance with the Financial Regulation.

European Union Solidarity Fund

11. When the conditions for mobilising the European Union Solidarity Fund as set out in the relevant basic act are met, the Commission shall make a proposal to mobilise it. Where there is scope for reallocating appropriations under the heading requiring additional expenditure, the Commission shall take that into account when making the necessary proposal, in accordance with the Financial Regulation, by means of the appropriate budgetary instrument. The decision to mobilise the Solidarity Fund shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

In the event of disagreement, a trilogue procedure shall be initiated.

Flexibility Instrument

12. The Commission shall make a proposal for the Flexibility Instrument to be mobilised after it has examined all possibilities for re-allocating appropriations under the heading requiring additional expenditure.

The proposal shall identify the needs to be covered and the amount. It may be presented, for any given financial year, during the budgetary procedure.

The decision to mobilise the Flexibility Instrument shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

Agreement shall be reached in the framework of the annual budgetary procedure.

European Globalisation Adjustment Fund

13. When the conditions for mobilising the European Globalisation Adjustment Fund, as set out in the relevant basic act, are met, the Commission shall make a proposal to mobilise it. The decision to mobilise the Globalisation Adjustment Fund shall be taken jointly by the European Parliament and the Council. The Council shall act by a qualified majority and the European Parliament shall act by a majority of its component members and three fifths of the votes cast.

At the same time as it presents its proposal for a decision to mobilise the Globalisation Adjustment Fund, the Commission shall present to the European Parliament and the Council a proposal for a transfer to the relevant budgetary lines.

In the event of disagreement, a trilogue procedure shall be initiated.

Transfers related to the Globalisation Adjustment Fund shall be made in accordance with the Financial Regulation.

Contingency Margin

14. The mobilisation of the Contingency Margin, or part thereof, shall be proposed by the Commission after a thorough analysis of all other financial possibilities. Such a proposal may only be made in relation to a draft amending or annual budget, for the adoption of which such a proposal would be necessary. The Commission shall accompany the proposal for the mobilisation of the Contingency Margin with a proposal for the reallocation, within the existing budget, of a significant amount, as far as supported by the Commission's analysis.

The decision to mobilise the Contingency Margin shall be taken jointly by the European Parliament and the Council simultaneously with their approval of the amending budget or general budget of the Union the adoption of which the Contingency Margin facilitates. The European Parliament and the Council shall act in accordance with the voting rules provided for in Article 314 TFEU for the approval of the general budget of the Union. PART II

IMPROVEMENT OF INTERINSTITUTIONAL COOPERATION IN BUDGETARY MATTERS

A. INTERINSTITUTIONAL COOPERATION PROCEDURE

15. The details of interinstitutional cooperation during the budgetary procedure are set out in the Annex.

Budgetary Transparency

16. The Commission shall prepare an annual report to accompany the general budget of the Union, bringing together available and non-confidential information relating to:
- the assets and liabilities of the Union, including those arising from borrowing and lending operations carried out by the Union in accordance with its powers under the Treaties;
 - the revenue, expenditure, assets and liabilities of the European Development Fund (EDF), the European Financial Stability Facility (EFSF), the European Stability Mechanism (ESM), and other possible future mechanisms, including trust funds;

- the expenditure incurred by Member States in the framework of enhanced cooperation, to the extent that it is not included in the general budget of the Union.

B. INCORPORATION OF FINANCIAL PROVISIONS IN LEGISLATIVE ACTS

17. Each legislative act, concerning a multiannual programme, adopted under the ordinary legislative procedure shall contain a provision in which the legislator lays down the financial envelope for the programme.

That amount shall constitute the prime reference amount for the European Parliament and the Council during the annual budgetary procedure.

The European Parliament and the Council, and the Commission when it draws up the draft budget, undertake not to depart by more than 10 % from that amount for the entire duration of the programme concerned, unless new, objective, long-term circumstances arise for which explicit and precise reasons are given, with account being taken of the results obtained from implementing the programme, in particular on the basis of assessments. Any increase resulting from such variation shall remain beneath the existing ceiling for the heading concerned, without prejudice to the use of instruments mentioned in the MFF Regulation and in this Agreement.

This Point applies neither to appropriations for cohesion adopted under the ordinary legislative procedure and pre-allocated by Member States, which contain a financial envelope for the entire duration of the programme nor to the large scale projects referred to in Article 16 of the MFF Regulation.

18. Legislative acts, concerning multiannual programmes, not subject to the ordinary legislative procedure shall not contain an 'amount deemed necessary'.

Should the Council wish to include a financial reference amount, that amount shall be taken as illustrating the will of the legislator and shall not affect the budgetary powers of the European Parliament and the Council as set out in the TFEU. A provision to this effect shall be included in all legislative acts which contain such a financial reference amount.

If the financial reference amount concerned has been the subject of an agreement pursuant to the conciliation procedure provided for in the Joint Declaration of the European Parliament, the Council and the Commission of 4 March 1975¹, it shall be considered a reference amount within the meaning of Point 17 of this Agreement.

¹ OJ C 89, 22.4.1975, p. 1.

C. EXPENDITURE RELATING TO FISHERIES AGREEMENTS

19. Expenditure on fisheries agreements shall be subject to the following specific rules.

The Commission undertakes to keep the European Parliament regularly informed about the preparation and conduct of the negotiations, including their budgetary implications.

In the course of the legislative procedure relating to fisheries agreements, the institutions undertake to make every effort to ensure that all procedures are carried out as quickly as possible.

Amounts provided for in the budget for new fisheries agreements or for the renewal of fisheries agreements which come into force after January 1 of the related financial year shall be put in reserve.

If appropriations relating to fisheries agreements (including the reserve) prove insufficient, the Commission shall provide the European Parliament and the Council with the necessary information for an exchange of views in the form of a trilogue, possibly in a simplified form, on the causes of the situation, and on measures which might be adopted under established procedures. Where necessary, the Commission shall propose appropriate measures.

Each quarter, the Commission shall present to the European Parliament and the Council detailed information about the implementation of fisheries agreements in force and a financial forecast for the remainder of the year.

20. Representatives of the European Parliament may take part, with observer status, in bilateral and multilateral conferences negotiating international fisheries agreements, taking account of the European Parliament's powers in the field of fisheries agreements and in accordance with points 25 and 26 of the Framework Agreement on relations between the European Parliament and the European Commission¹.
21. Without prejudice to the relevant procedure governing the negotiation of fisheries agreements, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the adequate financing of fisheries agreements.

¹ OJ L 304, 20.11.2010, p. 47.

**D. EXPENDITURE RELATING TO THE RESERVE FOR CRISES
IN THE AGRICULTURAL SECTOR**

22. Appropriations for the Reserve for crises in the agricultural sector provided for in [Article 25a] of Regulation (EU) No ... of the European Parliament and of the Council^{1*} shall be entered directly in the general budget of the Union. Any amount of the Reserve not made available for crisis measures shall be reimbursed to direct payments.

Expenditure related to measures for crises occurring between 16 October and the end of the financial year may be financed from the reserve of the following financial year in accordance with the requirements laid down in the third paragraph.

If the Commission considers that the Reserve needs to be called on, in accordance with the relevant legislative act, it shall present to the European Parliament and to the Council a proposal for a transfer from the Reserve to the budget lines financing the measures it considers necessary. Any Commission proposal for a transfer from the Reserve shall be preceded by an examination of the scope for reallocating appropriations.

Transfers from the Reserve shall be made in accordance with the Financial Regulation.

In the event of disagreement, a trilogue procedure shall be initiated.

¹ Regulation (EU) No ... of the European Parliament and of the Council of ... on the financing, management and monitoring of the Common Agricultural Policy (OJ L ...)

* OJ: Please insert the date and number of the doc in and complete the footnote reference.

E. FINANCING OF THE COMMON FOREIGN AND SECURITY POLICY (CFSP)

23. The total amount of CFSP operating expenditure shall be entered entirely in one budget chapter, entitled CFSP. That amount shall cover the real predictable needs, assessed in the framework of the establishment of the draft budget, on the basis of forecasts drawn up annually by the High Representative of the Union for Foreign Affairs and Security Policy (the "High Representative"), and a reasonable margin for unforeseen actions. No funds may be entered in a reserve.
24. As regards CFSP expenditure which is charged to the general budget of the Union in accordance with Article 41 of the Treaty on European Union, the institutions shall endeavour, in the Conciliation Committee, and on the basis of the draft budget established by the Commission, to secure agreement each year on the amount of the operating expenditure to be charged to the general budget of the Union, and on the distribution of that amount between the articles of the CFSP budget chapter suggested in the fourth paragraph of this Point. In the absence of agreement, it is understood that the European Parliament and the Council shall enter in the budget the amount contained in the previous budget or the amount proposed in the draft budget, whichever is the lower.

The total amount of CFSP operating expenditure shall be distributed between the articles of the CFSP budget chapter as suggested in the fourth paragraph. Each article shall cover instruments already adopted, instruments which are foreseen but not yet adopted and all other future - that is unforeseen - instruments to be adopted by the Council during the financial year concerned.

Since, under the Financial Regulation, the Commission has the authority to transfer appropriations autonomously between articles within the CFSP budget chapter, the flexibility deemed necessary for speedy implementation of CFSP actions shall accordingly be assured. In the event of the amount of the CFSP budget chapter during the financial year being insufficient to cover the necessary expenses, the European Parliament and the Council shall seek a solution as a matter of urgency, on a proposal from the Commission, taking into account Article 3 of the MFF Regulation and Point 10 of this Agreement.

Within the CFSP budget chapter, the articles into which the CFSP actions are to be entered could read along the following lines:

- single major missions as referred to in Article 49(1)(g) of the Financial Regulation,
- crisis management operations, conflict prevention, resolution and stabilisation, and monitoring and implementation of peace and security processes,
- non-proliferation and disarmament,
- emergency measures,
- preparatory and follow-up measures,
- European Union Special Representatives.

25. Each year, the High Representative shall consult the European Parliament on a forward-looking document, which shall be transmitted by June 15 of the year in question, setting out the main aspects and basic choices of the CFSP, including the financial implications for the general budget of the Union, an evaluation of the measures launched in the year n-1 and an assessment of the coordination and complementarity of CFSP with the Union's other external financial instruments. Furthermore, the High Representative shall keep the European Parliament regularly informed by holding joint consultation meetings at least five times a year, in the framework of the regular political dialogue on the CFSP, to be agreed at the latest in the Conciliation Committee. Participation in those meetings shall be determined by the European Parliament and the Council respectively, bearing in mind the objective, and the nature of the information exchanged in those meetings.

The Commission shall be invited to participate in those meetings.

If the Council adopts a decision in the field of the CFSP entailing expenditure, the High Representative shall immediately, and in any event no later than five working days thereafter, send the European Parliament an estimate of the costs envisaged (a 'financial statement'), in particular those costs regarding time-frame, staff employed, use of premises and other infrastructure, transport facilities, training requirements and security arrangements.

Once a quarter, the Commission shall inform the European Parliament and the Council about the implementation of CFSP actions and the financial forecasts for the remainder of the financial year.

**F. INVOLVEMENT OF THE INSTITUTIONS AS REGARDS DEVELOPMENT POLICY
ISSUES AND THE EUROPEAN DEVELOPMENT FUND**

26. The Commission shall establish an informal dialogue with the European Parliament on development policy issues regardless of their source of financing. The scrutiny of the European Parliament of the European Development Fund (EDF) will be aligned on a voluntary basis to the scrutiny rights that exist under the general budget of the Union, specifically in relation to the Development Cooperation Instrument, pursuant to detailed arrangements to be fixed in the informal dialogue.

The European Parliament and the Council note that the Commission, with a view to, *inter alia*, enhancing the democratic scrutiny of development policy, intends to propose the budgetisation of the EDF as of 2021.

**G. COOPERATION OF THE INSTITUTIONS IN THE BUDGETARY PROCEDURE ON
ADMINISTRATIVE EXPENDITURE**

27. The savings implied by the ceiling for heading 5 as set out in the Annex to the MFF Regulation, shall be proportionately shared between all institutions as well as other Union bodies based on their respective share of the administrative budgets.

Each institution, body or agency is expected to present estimates of expenditure in the annual budgetary procedure consistent with the orientations referred to in the first paragraph.

To neutralise the additional capacity built up by the increase of working time to 40 hours per week, the European Parliament, the Council and the Commission agree to progressively render 5 % of the staff as in the establishment plan on 1 January 2013¹. This reduction should apply to all institutions, bodies and agencies, and be effected between 2013 and 2017. This does not prejudice the budgetary rights of the European Parliament and the Council .

¹ The Council and the Commission have already implemented a first reduction of 1 % of staff as in their establishment plan on 1. January 2013.

PART III

SOUND FINANCIAL MANAGEMENT

OF UNION FUNDS

A. JOINT MANAGEMENT

28. The Commission shall ensure that the European Parliament, the Council and the Court of Auditors, at their request, receive any information and documentation related to Union funds spent through international organisations, obtained under the verification agreements concluded with those organisations, which are considered necessary for the exercise of the competences of the European Parliament, the Council or the Court of Auditors under the TFEU.

Evaluation report

29. In the evaluation report provided for by Article 318 TFEU, the Commission shall distinguish between internal policies, focused on the Europe 2020 strategy, and the external policies and shall use more performance information, including performance audit results, to evaluate the finances of the Union based on the results achieved.

Financial programming

30. The Commission shall submit twice a year, the first time in April or May (together with the documents accompanying the draft budget) and the second time in December or January (after the adoption of the general budget of the Union), a complete financial programming for headings 1 (except the sub-heading for "Economic, social and territorial cohesion"), 2 (for "environment" and "fisheries" only), 3 and 4 of the MFF. That programming, structured by heading, policy area and budget line, should identify:

- (a) the legislation in force, with a distinction being drawn between multiannual programmes and annual actions:
 - for multiannual programmes, the Commission should indicate the procedure under which they were adopted (ordinary or special legislative procedure), their duration, the total financial envelope and the share allocated to administrative expenditure;
 - for annual actions (relating to pilot projects, preparatory actions and agencies) and actions financed under the prerogatives of the Commission, the Commission should provide multiannual estimates and indicate the margins left under the authorised ceilings fixed in Commission Delegated Regulation (EU) No 1268/2012¹;

¹ Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ L 362, 31.12.2012, p. 1).

- (b) pending legislative proposals: ongoing Commission proposals, with the latest update.

The Commission should consider ways of cross-referencing the financial programming with its legislative programming to provide more precise and reliable forecasts. For each legislative proposal, the Commission should indicate whether it is included in the April programme or in the December programme. The European Parliament and the Council should in particular be informed of:

- (a) all new legislative acts adopted and all pending proposals presented but not included in the April or the December programme (with the corresponding amounts);
- (b) legislation foreseen in the Commission's annual legislative work programme, with an indication of whether the actions are likely to have a financial impact.

Whenever necessary, the Commission should indicate the reprogramming entailed by new legislative proposals.

B. AGENCIES AND EUROPEAN SCHOOLS

31. Before presenting a proposal for the creation of a new agency, the Commission should produce a sound, complete and objective impact assessment, taking into account, *inter alia*, the critical mass of staff and competencies, cost-benefit aspects, subsidiarity and proportionality, the impact on national and Union activities, and the budgetary implications for the expenditure heading concerned. On the basis of that information and without prejudice to the legislative procedures governing the setting up of the agency, the European Parliament and the Council commit themselves, in the framework of budgetary cooperation, to arrive at a timely agreement on the financing of the proposed agency.

The following procedural steps shall be applied:

- firstly, the Commission shall systematically present any proposal for setting up a new agency to the first trilogue following the adoption of its proposal, and shall present the financial statement accompanying the draft legal act proposing the creation of the agency and shall illustrate the consequences thereof for the remaining period of the financial programming;
- secondly, during the legislative process, the Commission shall assist the legislator in assessing the financial consequences of the amendments proposed. Those financial consequences should be considered during the relevant legislative trilogues;

- thirdly, before the conclusion of the legislative process, the Commission shall present an updated financial statement taking into account potential modifications by the legislator; this final financial statement shall be placed on the agenda of the final legislative trilogue and formally endorsed by the legislator. It shall also be placed on the agenda of a subsequent budgetary trilogue (in urgent cases, in simplified form), in view of reaching an agreement on the financing;
- fourthly, the agreement reached during a trilogue, taking into account the Commission's budgetary assessment with regard to the content of the legislative process, shall be confirmed in a joint declaration. That agreement shall be subject to approval by the European Parliament and the Council, each in accordance with its own rules of procedure.

The same procedure would be applied to any amendment to a legal act concerning an agency which would have an impact on the resources of the agency in question.

Should the tasks of an agency be modified substantially without an amendment to the legal act setting up the agency in question, the Commission shall inform the European Parliament and the Council by means of a revised financial statement, so as to allow the European Parliament and the Council to arrive at a timely agreement on the financing of the agency.

32. Relevant provisions from the Common Approach annexed to the Joint Statement of the European Parliament, the Council of the European Union and the European Commission on decentralised agencies signed on 19 July 2012 should be duly taken into account in the budgetary procedure.
33. When the creation of a new European school is envisaged by the Board of Governors, a similar procedure is to be applied, *mutatis mutandis*, for its budgetary implications on the general budget of the Union.

Done at Brussels,

For the European Parliament
The President

For the Council
The President

For the Commission
Member of the Commission

ANNEX

INTERINSTITUTIONAL COOPERATION DURING THE BUDGETARY PROCEDURE

Part A. Calendar of the budgetary procedure

1. The institutions shall agree a pragmatic calendar each year in due time before the start of the budgetary procedure on the basis of present practice.

Part B. Priorities for the budgetary procedure

2. In due time before the adoption of the draft budget by the Commission, a trilogue shall be convened to discuss the possible priorities for the budget of the coming financial year.

Part C. Establishment of the Draft Budget and Updating of Estimates

3. The institutions, other than the Commission, are invited to adopt their statement of estimates before the end of March.
4. The Commission shall, each year, present a draft budget showing the Union's actual financing requirements.

It shall take into account:

- (a) forecasts provided by the Member States in relation to the Structural Funds,
 - (b) the capacity for utilising appropriations, while endeavouring to maintain a strict relationship between appropriations for commitments and appropriations for payments,
 - (c) possibilities for starting up new policies through pilot projects, new preparatory actions or both, or for continuing multiannual actions which are coming to an end, after assessing whether it is possible to secure a basic act, within the meaning of the Financial Regulation (definition of a basic act, necessity of a basic act for implementation and exceptions),
 - (d) the need to ensure that any change in expenditure in relation to the previous year is in accordance with the constraints of budgetary discipline.
5. The institutions shall, as far as possible, avoid entering items in the budget involving insignificant amounts of expenditure on operations.
6. The European Parliament and the Council also undertake to bear in mind the assessment of the possibilities for implementing the budget made by the Commission in its drafts and in connection with the implementation of the current budget.

7. In the interests of sound financial management and owing to the effect of major changes in the titles and chapters of the budget nomenclature on the management reporting responsibilities of Commission departments, the European Parliament and the Council undertake to discuss any major changes with the Commission during the conciliation.
8. In the interest of loyal and sound institutional cooperation, the European Parliament and the Council commit to maintaining regular and active contacts at all levels, through their respective negotiators, throughout the whole budgetary procedure and, in particular, during the conciliation period. The European Parliament and the Council undertake to ensure the timely and constant mutual exchange of relevant information and documents at both formal and informal levels, as well as to hold technical or informal meetings as needed, during the conciliation period, in cooperation with the Commission. The Commission shall ensure timely and equal access to information and documents for the European Parliament and the Council.
9. Until such time as the Conciliation Committee is convened, the Commission may, if necessary, amend the draft budget in accordance with Article 314(2) TFEU, including by an amending letter updating expenditure estimates for agriculture. The Commission shall submit information on updates to the European Parliament and the Council for their consideration as soon as it is available. It shall supply the European Parliament and the Council with all the duly justified reasons they may require.

Part D. Budgetary procedure before the Conciliation procedure

10. A trilogue shall be convened in good time before the Council's reading, to allow the institutions to have an exchange of views on the draft budget.
11. In order for the Commission to be able to assess in due time the implementability of amendments, envisaged by the European Parliament and the Council, which create new preparatory actions or pilot projects or which prolong existing ones, the European Parliament and the Council shall inform the Commission of their intentions in this regard, so that a first discussion may already take place at that trilogue.
12. A trilogue could be convened before the votes in plenary of the European Parliament.

Part E. Conciliation procedure

13. If the European Parliament adopts amendments to the Council's position, the President of the Council shall, during the same plenary sitting, take note of the differences in the position of the two institutions and give his/her agreement for the President of the European Parliament to convene the Conciliation Committee immediately. The letter convening the Conciliation Committee shall be sent at the latest on the first working day of the week following the end of the parliamentary part-session during which the plenary vote was delivered, and the conciliation period shall start on the following day. The 21-day time period shall be calculated in accordance with Council Regulation (EEC, Euratom) No 1182/71¹².

¹² Regulation (EEC, Euratom) No 1182/71 of the Council of 3 June 1971 determining the rules applicable to periods, dates and time limits (OJ L 124, 8.6.1971, p. 1).

14. If the Council cannot agree on all the amendments adopted by the European Parliament, it should confirm its position by letter sent before the first meeting foreseen during the conciliation period. In such case, the Conciliation Committee shall proceed in accordance with the conditions laid down in the following points.
15. The Conciliation Committee shall be chaired jointly by representatives of the European Parliament and of the Council. Meetings of the Conciliation Committee shall be chaired by the co-chair from the institution hosting the meeting. Each institution, in accordance with its own rules of procedure, shall designate its participants for each meeting and define its mandate for the negotiations. The European Parliament and the Council shall be represented at an appropriate level in the Conciliation Committee, such that each delegation can commit politically its respective institution, and that actual progress towards the final agreement may be made.
16. In accordance with the second subparagraph of Article 314(5) TFEU, the Commission shall take part in the Conciliation Committee's proceedings and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council.

17. Trilogues shall take place throughout the conciliation procedure, at different levels of representation, with the aim of resolving outstanding issues and preparing the ground for an agreement to be reached in the Conciliation Committee.
18. Meetings of the Conciliation Committee and trilogues shall be held alternately at the premises of the European Parliament and of the Council, with a view to an equal sharing of facilities, including interpretation facilities.
19. The dates of the meetings of the Conciliation Committee and the trilogues shall be set in advance by agreement of the three institutions.
20. A common set of documents ("input documents") comparing the various steps of the budgetary procedure shall be made available to the Conciliation Committee¹³. Those documents shall include "line by line" figures, totals by MFF headings and a consolidated document with figures and remarks for all budget lines deemed technically "open". Without prejudice to the final decision of the Conciliation Committee, a specific document shall list all budget lines deemed technically closed¹⁴. Those documents shall be classified by budgetary nomenclature.

¹³ The various steps include: the budget of the current financial year (including adopted amending budgets); the initial draft budget; the Council's position on the draft budget; the European Parliament's amendments to the Council's position and the letters of amendment presented by the Commission (if not yet fully approved by all institutions).

¹⁴ A budget line deemed technically closed is a line for which there is no disagreement between the European Parliament and the Council, and for which no letter of amendment has been presented.

Other documents shall also be attached to the input documents for the Conciliation Committee, including a letter of executability from the Commission on the Council's position and the European Parliament's amendments; and any letter(s) from other Institutions concerning the Council's position or the European Parliament's amendments.

21. With a view to reaching agreement by the end of the conciliation period, trilogues shall:

- define the scope of the negotiations on the budgetary issues to be addressed;
- endorse the list of the budget lines deemed technically closed, subject to the final agreement on the entire budget of the financial year;
- discuss issues identified under the first indent with a view to reaching possible agreements to be endorsed by the Conciliation Committee;
- address thematic issues, including by headings of the MFF.

Tentative conclusions shall be drawn jointly during or immediately after each trilogue, and, simultaneously, the agenda of the following meeting shall be agreed. Those conclusions shall be registered by the institution hosting the trilogue and shall be deemed provisionally approved after 24 hours, without prejudice to the final decision of the Conciliation Committee.

22. The conclusions of trilogues and a document for possible endorsement shall be available to the Conciliation Committee at its meetings, together with the budget lines in respect of which an agreement has been tentatively reached during the trilogues.

23. The joint text provided for in Article 314(5) TFEU shall be established by the secretariats of the European Parliament and of the Council with the assistance of the Commission. It shall consist of a letter of transmission addressed by the chairs of the two delegations to the Presidents of the European Parliament and Council, containing the date of the agreement at the Conciliation Committee, and annexes which shall include:

- line by line figures for all budget items and summary figures by MFF headings;
- a consolidated document, indicating the figures and final text of all lines that have been modified during the conciliation procedure;
- the list of the lines not modified with regard to the draft budget or the Council's position on it.

The Conciliation Committee may also approve conclusions and possible joint statements in relation to the budget.

24. The joint text shall be translated into the official languages of the institutions of the Union (by the services of the European Parliament) and shall be submitted for the approval of the European Parliament and the Council within a period of fourteen days from the date of the agreement on the joint text pursuant to Point 23.

The budget shall be subject to legal-linguistic finalisation after the adoption of the joint text by integrating the annexes of the joint text with the budget lines not modified during the conciliation procedure.

25. The institution hosting the meeting (trilogue or conciliation) shall provide interpretation facilities with a full linguistic regime applicable to the Conciliation Committee meetings and an *ad hoc* linguistic regime for the trilogues.

The institution hosting the meeting shall provide for the copying and distribution of room documents.

The services of the three institutions shall cooperate in the encoding of the results of the negotiations in order to finalise the joint text.

Part F. Amending Budgets

General principles

26. Bearing in mind that amending budgets are frequently focused on specific and sometimes urgent issues, the institutions agree on the following principles to ensure appropriate interinstitutional cooperation for a smooth and swift decision-making process for amending budgets while avoiding, as far as possible, having to convene a conciliation meeting for amending budgets.
27. As far as possible, the institutions shall endeavour to limit the number of amending budgets.

Calendar

28. The Commission shall inform the European Parliament and the Council in advance of the possible dates of adoption of draft amending budgets, without prejudice to the final date of adoption.
29. Each in accordance with its internal rules of procedure, the European Parliament and the Council shall endeavour to examine the draft amending budget proposed by the Commission at an early opportunity after its adoption by the Commission.
30. In order to speed up the procedure, the European Parliament and the Council shall ensure that their respective calendars of work are coordinated as far as possible in order to enable proceedings to be conducted in a coherent and convergent fashion. They shall therefore seek as soon as possible to establish an indicative timetable for the various stages leading to the final adoption of the amending budget.

The European Parliament and the Council shall take into account the relative urgency of the amending budget and the need to approve it in due time to be effective during the financial year concerned.

Cooperation during the readings

31. The institutions shall cooperate in good faith throughout the procedure, clearing the way, as far as possible, for the adoption of amending budgets at an early stage of the procedure.

When appropriate, and when there is a potential divergence, the European Parliament or the Council, before each takes its final position on the amending budget, or the Commission at any time, may propose that a specific trilogue be convened to discuss the divergences and to try to reach a compromise.

32. All draft amending budgets proposed by the Commission and not yet finally approved shall be entered systematically on the agenda of trilogues planned for the annual budgetary procedure. The Commission shall present the draft amending budgets and the European Parliament and the Council shall, as far as possible, make known their respective positions ahead of the trilogue.

33. If a compromise is reached during a trilogue, the European Parliament and the Council undertake to consider the results of the trilogue when deliberating on the amending budget in accordance with the TFEU and their rules of procedure.

Cooperation after the readings

34. If the European Parliament approves the position of the Council without amendments, the amending budget shall be adopted in accordance with the TFEU.
35. If the European Parliament adopts amendments by a majority of its component members, Article 314(4)(c) TFEU shall apply. However, before the Conciliation Committee meets, a trilogue shall be called:
- if an agreement is reached during the trilogue and subject to the agreement of the European Parliament and the Council on the results of the trilogue, the conciliation shall be closed by an exchange of letters without a meeting of the Conciliation Committee.
 - if no agreement is reached during the trilogue, the Conciliation Committee shall meet and organise its work in accordance with the circumstances, with a view to completing the decision-making process as much as possible before the twenty-one-day deadline laid down in Article 314(5) TFEU. The Conciliation Committee may conclude by an exchange of letters.

Part G . "Reste à liquider" (RAL)

36. Given the need to ensure an orderly progression of the total appropriations for payments in relation to the appropriations for commitments so as to avoid any abnormal shift of RAL from one year to another, the European Parliament, the Council and the Commission agree to monitor closely the level of the RAL so as to mitigate the risk of hampering the implementation of Union programmes because of a lack of payment appropriations at the end of the MFF.

In order to ensure a manageable level and profile for the payments in all headings, de-commitment rules shall be applied strictly in all headings, in particular the rules for automatic de-commitments.

In the course of the budgetary procedure, the institutions shall meet regularly with a view to jointly assessing the state of play and the outlook for budgetary implementation in the current and future years. This shall take the form of dedicated inter-institutional meetings at the appropriate level, before which the Commission shall provide the detailed state of play, broken down by Fund and Member State, on payment implementation, reimbursement claims received and revised forecasts. In particular, in order to ensure that the Union can fulfill all its financial obligations stemming from existing and future commitments in the period 2014-2020 in accordance with Article 323 TFEU, the European Parliament and the Council shall analyse and discuss the Commission's estimates as to the required level of payment appropriations.

9.10.2013

OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Constitutional Affairs

on the draft Interinstitutional Agreement between the European Parliament, the Council and the Commission on budgetary discipline, cooperation in budgetary matters and on sound financial management
(2011/2152(ACI))

Rapporteur: Jean-Luc Dehaene, Ivailo Kalfin

SUGGESTIONS

The Committee on Budgets calls on the Committee on Constitutional Affairs, as the committee responsible, to incorporate the following suggestions in its proposal for a European Parliament decision:

The European Parliament

1. Welcomes the political agreement reached on 27 June 2013 at the highest political level between Parliament, the Irish Presidency and the Commission on the Multiannual Financial Framework (MFF) 2014-2020 package (MFF Regulation and IIA); Is determined to make full use, in the course of forthcoming budgetary procedures, of the new instruments established, notably as regards flexibility;
2. Highlights that the long and strenuous negotiations, both within Council and at interinstitutional level, and their outcome constitute an unsatisfactory implementation of the new provisions of the TFEU concerning the MFF, which were implemented for the first time, in particular as regards the role and prerogatives of the Parliament;
3. Denounces the fact that the Council considered the European Council conclusions of 8 February 2013 as binding for Council negotiators; stresses that the European Council conclusions also included elements falling under the ordinary legislative procedure, such as detailed allocation criteria, envelopes by programmes or beneficiary, as well as discretionary financial allocations adjusting the level of national returns from the Union budget;
4. Regrets, moreover, that the numerous contacts and meetings held over the past few years between its delegation and the successive Council presidencies had no impact on the

spirit, calendar or content of the negotiations or on the Council's position, including the need to distinguish the legislative from the budgetary aspects of the MFF agreement;

5. Concludes that, in line with Article 312(5) TFEU, alternative working arrangements should be defined in the future to facilitate the adoption of the MFF, ensuring that the Parliament's legislative and budgetary powers, as granted by the TFEU, are fully respected, that Council actually negotiates also any so-called 'MFF-related' parts of the legal bases, and that the European Council refrains from acting as a legislator, in breach of the TFEU;
6. Calls for its Committee on Budgets, in cooperation with its Committee on Constitutional Affairs, to draw the necessary conclusions and come forward with new proposals, in due time ahead of the 2016 post electoral revision, on the modalities of such negotiations, so as to ensure the democratic and transparent nature of the whole budget setting process.

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	9.10.2013
Result of final vote	+: 32 -: 4 0: 2
Members present for the final vote	Richard Ashworth, Francesca Balzani, Zuzana Brzobohatá, Jean Louis Cottigny, Jean-Luc Dehaene, Isabelle Durant, Göran Färm, José Manuel Fernandes, Eider Gardiazábal Rubial, Jens Geier, Ivars Godmanis, Ingeborg Gräßle, Lucas Hartong, Jutta Haug, Monika Hohlmeier, Sidonia Elżbieta Jędrzejewska, Anne E. Jensen, Ivailo Kalfin, Sergej Kozlík, Jan Kozłowski, Alain Lamassoure, Giovanni La Via, George Lyon, Barbara Matera, Vojtěch Mynář, Juan Andrés Naranjo Escobar, Dominique Riquet, Alda Sousa, Derek Vaughan, Angelika Werthmann
Substitute(s) present for the final vote	François Alfonsi, Frédéric Daerden, Ivana Maletić, Paul Rübig, Peter Šťastný, Nils Torvalds
Substitute(s) under Rule 187(2) present for the final vote	Ildikó Gáll-Pelcz, Oldřich Vlasák

RESULT OF FINAL VOTE IN COMMITTEE

Date adopted	14.10.2013
Result of final vote	+: 21 -: 5 0: 0
Members present for the final vote	Alfredo Antoniozzi, Andrew Henry William Brons, Zdravka Bušić, Carlo Casini, Andrew Duff, Ashley Fox, Roberto Gualtieri, Zita Gurmai, Gerald Häfner, Stanimir Ilchev, Constance Le Grip, Morten Messerschmidt, Sandra Petrović Jakovina, Paulo Rangel, Algirdas Saudargas, Søren Bo Søndergaard, Rafał Trzaskowski, Luis Yáñez-Barnuevo García
Substitute(s) present for the final vote	Elmar Brok, David Campbell Bannerman, Dimitrios Droutsas, Isabelle Durant, Marietta Giannakou, Alain Lamassoure, Andrej Plenković
Substitute(s) under Rule 187(2) present for the final vote	Edward McMillan-Scott, Elisabeth Morin-Chartier, Catherine Trautmann