

# BULLETIN

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## The EU Budget for 2011 as a Tool in the European Parliament's Struggle for More Influence in the EU

by Agata Gostyńska, Paweł Tokarski

*On 15 November 2010, negotiations on the EU budget for 2011 within the Conciliation Committee failed to succeed. The actual problem that arose and prevented the adoption of the budget draft was not the spending volume in 2011, but the role that the European Parliament would like to play in the Multiannual Financial Framework negotiations for 2014-2020, and in the debate on changes in EU funding. The lack of agreement in December between Parliament and the Council of the European Union resulting in a provisional budget may constitute negative financial consequences for the new instruments introduced by the Lisbon Treaty, including the European External Action Service.*

**The Consequences of the Conciliation Procedure's Failure.** Talks among representatives of the Council of the European Union (EU Council), the European Parliament (EP) and the European Commission (EC) have been ongoing since 27 October. The failure of negotiations means the whole budgetary procedure needs to be started from the beginning. A new draft budget already was presented by the EC on 26 November. It is mostly based on the previous draft discussed within the Conciliation Committee. The draft amended by the EU Council will be voted on by the EP. If the parties fail to reach consensus, the conciliation procedure will start again from the beginning.

According to Article 315 of the Treaty on the Functioning of the European Union (TFEU), in the absence of agreement between the EP and the EU Council concerning the 2011 budget proposal, the amount of each month's spending in 2011 cannot exceed 1/12<sup>th</sup> of the budget for the previous year (provisional twelfths). If that is the case, a provisional budget may delay the achievement of the full operational capability of new institutions, such as the European External Action Service (EEAS). In a similar situation will be the newly established supervisory agencies for the financial markets, which are to be financed with 40% in EU funds, as well as the International Thermonuclear Experimental Reactor, which has 45% EU funding. The operability of the new Agency for the Cooperation of Energy Regulators may be also in question. The EC claims that it also will be impossible to benefit from the Solidarity Fund, the European Globalisation Adjustment Fund as well as from the reserve fund for emergency assistance. A provisional budget may also cause a slight delay in payments from the cohesion policy and Common Agriculture Policy (CAP). Most of the funds for direct payments under CAP should be distributed by the EC in January, which in case of financial limits based on provisional twelfths would not be possible. A provisional budget also limits the flexibility and the possibility of planning.

**Parliament's Role in the Budget Procedure.** The Lisbon Treaty (LT) has simplified the annual budgetary procedure and expanded the powers of the EP. Hitherto, expenditures were categorized as either being compulsory or voluntary, and the EP had a decisive influence on non-compulsory expenditures. The LT abolishes this distinction, constituting the EP as a co-decision maker of all EU spending, including CAP, which was qualified so far as compulsory spending. Therefore, the EP's role has been significantly increased.

In the negotiations lasting until 15 November, the increase in spending for 2011 (EP initially advocated for an increase in spending of 6.2% and not for the 2.9% proposed by the EU Council) constituted an excuse for the EP to fight for a stronger impact on shaping the EU's future finances, including having a say on the future revenue structure.

In contradiction to the annual budgets, the EP does not have a major impact on the negotiation process over the Multiannual Financial Framework (MFF). In accordance with Article 312 of the TFEU, the EU Council adopts a regulation laying down the MFF, acting unanimously after having obtained the consent of the EP, which then votes on the whole proposal. Throughout the procedure leading to the adoption of the MFF the EP, the EU Council and the EC shall take all measures necessary to facilitate its adoption. This provision, according to EP opens up the opportunity to participate in the negotiations at their earliest stage. In its resolution of 25 November on the ongoing negotiations on the 2011 budget, the EP expressed its readiness to facilitate an agreement on the budget provided that its participation in the negotiations process of MFF as well as regular deliberations held at presidential levels of the EP, EC and EU Council are guaranteed.

In accordance with Article 311 of the TFEU, the EU Council only consults the EP before taking a decision on the EU's own resources. However, the EP wishes to obtain from the EU Council the concession to discuss proposals on new resources for the EU. Currently, the EU budget gets about 76% of its financing from Member States' contributions based on GNI. It is unclear and favours maintaining the system of corrections and rebates. The EP calls for new funding opportunities, e.g. by introducing a tax at the EU level. However, it would be difficult to implement that idea, bearing in mind that some Member States such as Great Britain, Denmark, Sweden and the Netherlands oppose it.

In the last few days, the EP achieved success concerning flexibility mechanism. The EU Council agreed on moving the expenditure (amounting to a maximum of 0.03% of GNI) between the budgetary spending headings on the basis of the decision adopted with a qualified majority and not, as it was previously insisted, unanimously.

**Parliament's Significance in the EU Decision-making Process.** Deadlock in the Conciliation Committee fits in with Parliament's long-observed tendency to extend its competences through subsequent treaties. The EP has evolved from a consultative body in the '50s-'60s and became the main legislative body next to the EU Council. Already since the 70-ties of the twentieth century the EP has enjoyed significant powers over the adoption of the budget. Directly elected from 1979 on, the EP justified its position on budget matters with a mandate given from the citizens. The rejection of the budget drafts in 1979 and 1988 constituted a clear signal that the EP will eagerly use the competences granted by the treaties.

The assessment of EU policy-making on the first anniversary of the LT' entry into force indicates that the EP continues its strategy. In the third month of operating the LT, the EP exercised its newly granted powers in the scope of concluding international agreements in the Area of freedom security and justice. It rejected an agreement on the transfer of banking information used to combat terrorism (a SWIFT agreement). It was a clear signal that the EP under the wording of Article 218 (10) of the TFEU, should be fully informed at all stages of the negotiating procedure to avoid the possibility of blocking an international agreement. Moreover, with reference to the newly established EEAS, the EP used its budget and personnel powers to influence the decision of the EU Council establishing the organisation and functioning of the EEAS. In a declaration by the High Representative on political accountability, the EP was granted the opportunity to meet with the newly appointed heads of delegations in order to exchange views.

Additionally, the framework agreement on relations between the Parliament and the Commission, adopted on 20 October 2010, provides that the EC will adequately take into account the EP's comments during the entire process of negotiations on international agreements (Annex 3 to the agreement). The EU Council recognized some of the agreement's provisions as a violation of the principle of institutional balance as expressed in the treaties and did not rule out contesting the acts adopted on the basis of the agreement before the Court of Justice of the European Union.

**Conclusions.** On the occasion of negotiations over the budget for 2011, the EP proved that it would like to have a bigger say in the process of shaping EU policies. In the struggle for influence, it attempts to take advantage of newly established budget competences as well as existing gaps in the interpretation of the LT. It wishes to fill those gaps with a new practice driven by enhanced cooperation with the EC and EU Council. That raises concerns by the EU Council, which perceives the EP's actions as going beyond competences granted by the treaties. In the light of Poland's upcoming rotating presidency of the EU Council, it appears necessary to try to bring closer the positions of both institutions in order to avoid future competency disputes. It will be also crucial to intensify contacts with the EP and upgrade their significance. Working on a compromise with the EP on the scope of areas of particular interest to its deputies could facilitate and speed up the negotiations in cases classified as priorities of the presidency.