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INTERIM REPORT

of the Committee on Budgetary Control

on strengthening Parliament's powers of budgetary control
in the context of Parliament's strategy for European
Union

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A Series: Reports - B Series: Motions for Resolutions, Oral Questions - C Series: Documents received from other Institutions (e.g. Consultations) PE 144.109/fin.

* = Consultation procedure requiring a single reading

**II = Cooperation procedure (second reading) which requires the votes of a majority of the current Members of Parliament for rejection or amendment

**I = Cooperation procedure (first reading)

*** = Parliamentary assent which requires the votes of a majority of the current Members of Parliament

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By letter of 29 January 1990 the Committee on Budgetary Control requested authorization to draw up a report on strengthening Parliament's powers of budgetary control in the context of Parliament's strategy for European Union.

At the sitting of 2 April 1990 the President of the European Parliament announced that the committee had been authorized to report on this subject.

At its meeting of 30 May 1990 the Committee on Budgetary Control appointed Mrs GOEDMAKERS rapporteur.

At its meeting of 19-21 September 1990 the committee considered the draft report and adopted the motion for a resolution unanimously.

The following took part in the vote : Price, Chairman; Wynn, Vice-Chairman; Goedmakers, Rapporteur; Funk (replacing Langes); Marck, Saridakis, Schodruch, Sierra Bardaji (replacing Papoutsis); Tomlinson and Wettig.

The report was tabled on 27 September 1990.

The deadline for tabling amendments will appear on the draft agenda for the part-session at which the report is to be considered.

A

MOTION FOR A RESOLUTION

on strengthening Parliament's powers of budgetary control in the context of Parliament's strategy for European Union

The European Parliament,

- having regard to its resolutions of
 - . 11 July 1990 on the European Parliament's guidelines for a draft Constitution for the European Union, and in particular paragraph 11 thereof¹,
 - . 11 July 1990 on the Intergovernmental Conference in the context of Parliament's strategy for European Union, and in particular paragraphs 30, 36, 37 and 40 thereof²
 - . 12 July 1990 on the principle of subsidiarity³,
 - . 12 July 1990 on the preparation of the meeting with the national parliaments to discuss the future of the Community (the 'Assizes'), and in particular recital B thereof⁴,
 - having regard to Rule 121 of the Rules of Procedure,
 - having regard to the report by its Committee on Budgetary Control (Doc. A3-0233/90)
- A. whereas the democratic deficit in the Community can only be offset to the extent that wider powers are attributed to it, not only in the legislative area but also in its budgetary control powers in relation to the Council, the Commission, the other Community institutions and the national administrations exercising decentralized Community management powers,
- B. whereas the political monitoring function rises to particular prominence in the budgetary area in terms commensurate with the importance that the budget assumes for European economic convergence and in anticipation of economic and political union,
- C. whereas the financial provisions of the EEC Treaty (Articles 199 to 209) do not accord the political monitoring function that Parliament exercises in relation to the budget the importance that it is due,
1. Reiterates the need for budgetary control powers to be strengthened in order to offset a democratic deficit that could well become a permanent feature of European Union if the present allocation of powers between the Institutions were to be maintained;

¹Doc. A3-165/90

²Doc. A3-166/90

³Doc. A3-163/90

⁴Doc. A3-162/90

2. Emphasizes that strengthening budgetary control will lead to increased effectiveness in all aspects of Community revenue and expenditure;
3. Considers that the Parliament opinion, provided for under Article 236 of the EEC Treaty, on the convening of the Intergovernmental Conference for Political Union, should refer to the enlargement and strengthening of the budgetary control function as one of the fundamental problems to be debated;
4. Considers that the strengthening of powers of control should be vis-a-vis the Council, the Commission, the other Community institutions and national administrations inasmuch as these bodies exercise decentralized Community functions;
5. Considers that cooperation between the European Parliament and the Court of Auditors should be increased;
6. Stipulates here and now that if there is to be genuine consolidation of the institutional system of budgetary control, the Treaties will have to be amended and completed, so as to take cognizance of the following requirements, which in part have already been accepted in practice and recognized under the Financial Regulation;

As to the nature of budgetary control:

- (a) The budgetary management system must enable Parliament to intervene as appropriate in the course of the financial year and act in advance of the control exercised after the event through the discharge procedure; to that end, the Commission shall provide the budgetary authority with all documentation necessary (amendment to Article 205 of the EEC Treaty);
- (b) Controls should relate not only to the implementation of the budget but also to the sound management of policies having a budgetary impact and the assessment of results; in addition to securing legitimacy and regularity, they should be aimed at monitoring the effectiveness of operations and the sustainability of their effects (amendments to Articles 206a and 206b of the EEC Treaty);
- (c) The Treaty must throw into relief the status of the decision granting discharge, both as the final act in the assessment of responsibility of the Commission or its Members (inasmuch as the responsibilities of the latter can be clearly specified);

As to the object of control

- (d) The discharge procedure must encompass all budgetary operations that are not already subject to control (borrowing/lending) or that follow specific rules (ECSC, EDF) (adaptation of Articles 206a and 206b of the EEC Treaty);

As to the effectiveness of parliamentary acts of budgetary control

- (e) Observations forming an integral part of the decision granting discharge or of other of Parliament's resolutions relating to the area of budgetary control must be backed by the power of enforcement on the Institutions concerned (widening of the provision of Article 206b of the EEC Treaty)
- (f) The treaties must enshrine the principle that the decision on discharge entails the responsibility of the Commission or of its members specifically responsible at the highest level, and that the refusal to grant discharge is the political equivalent of a motion of no confidence;

As to interinstitutional relations in the matter of budgetary control:

- (g) The principle of democratic transparency and of freedom of information, should be enshrined in the Treaties by making it an obligation on the Commission, the other Community Institutions and the Member States to supply such information to Parliament as it may request in its capacity as political and control authority and, where necessary, investigating authority; as investigating authority Parliament should enjoy legal powers comparable to those of the Parliaments of the Member States (e.g. the power to call and take evidence from any Community citizen, official or otherwise, who can give relevant information and to require production by them of relevant documents);
 - (h) The role of the Court of Auditors as the institution of technical control responsible to Parliament as the political control authority, should be strengthened in the Treaties by providing for:
 - Parliament's right to ask the Court of Auditors to carry out investigations and submit reports;
 - Parliament's power to give its approval to the appointment of the Members of the Court of Auditors;
 - (i) The position of the Court of Auditors should be enhanced by making it a Community Institution;
 - (j) Parliament should have the right of recourse to the Court of Justice to seek for annulment, to consult the Court in respect of any matter regarding the interpretation of the Treaties, and to enforce its right to information as provided by these Treaty amendments;
 - (k) The Court of Justice should have the power to impose sanctions, including financial ones where appropriate, for violations of the obligations in question;
7. Instructs its President to forward this resolution to the Commission, the Council, the Court of Justice, the Court of Auditors, the Parliaments and Governments of the Member States, and to use this resolution as a basis for the texts it submits to preparatory meetings for the Intergovernmental Conference, the meeting with the national parliaments and meetings of the European Council.

B

EXPLANATORY STATEMENT

I. WHY SHOULD PARLIAMENT'S BUDGETARY CONTROL POWERS BE STRENGTHENED?

The adoption (in 1988) of normative measures - the 'Delors package' - and, subsequently, of the revised Financial Regulation (13 March 1990) profoundly changed the framework of Community budget management: provision for a more stringent budgetary discipline, such as results both from the Council decision of 24 June 1988 and the Interinstitutional Agreement, and the embodiment in the Financial Regulation of the cost-effectiveness safeguard clause all require increasingly intensive controls over the management of Community finances and their normative sources.

Moreover, the increasing sensitivity of public opinion to the subject of combating fraud against the Community budget, launched throughout Europe with the hearing of the Committee on Budgetary Control in January 1989, justifies consolidation of political control of the legitimacy, regularity and long-term effectiveness⁵ of budgetary activity in a European area without internal frontiers.

It is important to highlight the fact that in this transitional stage in the life of the Community the strengthening of the European Parliament's budgetary control powers takes on a very particular political significance.

There is in fact a very close link between the European Parliament's budgetary control and the elimination of the democratic deficit that the European Parliament is calling for as part of its strategy for European Union.

Parliament has asserted in this connection in its resolution of 12 July 1990 on the meeting with the national parliaments that 'the only way to overcome this deficit is to grant the European Parliament the legislative and monitoring powers not enjoyed by the national Parliaments over the Council as a whole and over the Commission' (recital B). It has also insisted that 'any extension of Community competence requires modification of the Treaties' (resolution of 12 July 1990 on the principle of subsidiarity - paragraph 2), and that the Treaties should be modified in the context of the December 1990 Intergovernmental Conference, and on the basis of a constitution to be prepared by the European Parliament (cf. paragraphs 4 and 5 of the resolution of 11 July 1990 on the Intergovernmental Conference in the context of Parliament's strategy for European Union).

The strengthening of Parliament's powers of control, in particular in the area of the budget, is thus an integral part of the strategy to offset the democratic deficit in the context of initiatives to secure political union. This problem must be raised at all the 'assizes' that are to be held to prepare for union: interparliamentary meeting in November, preparatory Interinstitutional Conference, Intergovernmental Conference in December. Finally, the opinion Parliament is to deliver in anticipation of the Intergovernmental Conference pursuant to Article 236 of the Treaty should take account of the requirements to be set out in this report.

⁵ Control of which will require verification of the use of resources over time, as recommended by the Brundtland Committee.

II. THE OBJECT OF ANALYSIS

The analysis to be carried out will be aimed at exploring the subjects covered by the Martin report: that report was in fact confined to identifying general problems arising in the area of budgetary control, but was unable to consider them in more detail because of the large number of institutional problems covered.

The interim report aims at identifying the problems that arise in strengthening Parliament's powers of budgetary control and the political solutions that might be given at the level of amendments to the Treaties, pursuant to the request Parliament submitted in its resolution of 11 July on the Intergovernmental Conference (Articles 204 to 209 of the Treaty, relating to financial provisions, 'must be adapted').

Your rapporteur reserves the right to draw up a final report setting out the regulatory and institutional mechanisms that might be used to bring about advances in constitutional practice in the Community on the basis of guidelines so established, even before these principles come to be enshrined in the Treaties.

The aspects of control to be considered here relate to:

- (a) the nature of the controls;
- (b) their purpose;
- (c) their effectiveness
- (d) interinstitutional relations in the context of control.

III. NATURE OF THE CONTROLS: ENSHRINING THE ENLARGEMENT OF POWERS IN THE TREATIES

The EEC Treaty gives only a very limited idea of the function of control; it provides for the 'discharge to the Commission on the implementation of the budget' which is 'given' by Parliament on the recommendation of the Council (Article 206b).

It follows from this provision:

- (a) That the nature of parliamentary control is such that monitoring can only take place after the event on past financial years;
- (b) That it would appear to be confined to the implementation of the budget and the legitimacy of operations, and not to monitoring of standards of management or the effectiveness of policies with budgetary impact, or the long-term impact of results and their assessment;
- (c) That the sovereign power of Parliament in granting discharge, recognized by the Financial Regulation (Article 89 of the revised version) is not stipulated explicitly.

The practice that has long since become established over many financial years, and which is now enshrined in a number of provisions of the Financial Regulation, nevertheless shows that genuinely effective parliamentary control will require the option of intervening in the course of implementation, and in relation not only to the level of utilization of budgetary appropriations but also the effective management of policies in operation. Nothing short of this form of control can allow satisfactory assessment and result in a

politically responsible decision on whether or not to grant discharge to the Commission and the other institutions.

Specifying the exact nature of budgetary control consequently requires greater precision in the Treaties; the following will have to be acknowledged:

- (a) The need for continuous control in the course of the financial year over expenditure policies; monitoring of management will have to be assisted, at a higher level, by monitoring of legislation, aimed at ensuring that the expenditure mechanisms provided for on new legal bases guarantee a satisfactory level of cost effectiveness;
- (b) That this form of control must be applied not only to the implementation of budgetary appropriations and the legitimacy of operations, but also to standards of management and effectiveness of policies having a budgetary impact, and to the long-term effectiveness of their outcome, and to their assessment;
- (c) The status as a sovereign act of the decision granting discharge, as the final act in the political assessment of the Commission's responsibility.

IV. THE OBJECT OF BUDGETARY CONTROL

Pursuant to the EEC Treaty the purpose of budgetary control is to 'examine the accounts and the financial statement' submitted by the Commission (Article 206b). A series of financial operations that are not part of the general budget consequently evades financial control, at least in terms of the Treaties:

- Community borrowing and lending operations (the management account provides them only with a token entry);
- the European Development Fund (EDF - a parliamentary discharge is provided for, by the specific financial regulations, not on the basis of the Treaty but under an internal Council agreement);
- the financial statements and the ECSC operating budget (the budgetary practice of granting discharge to the Commission is not supported by any Treaty provisions).

The political significance of these budgetary and financial circumstances clearly implies that parliamentary control, as provided for under the Treaties, should be explicitly extended to these areas.

V. EFFECTIVENESS OF POLITICAL ACTS OF BUDGETARY CONTROL

If the discharge can be refused or deferred what is the sanction that can give concrete effect to such a negative act? No reference is made to this in the Treaty (or in the Financial Regulation either). Nor does the EEC Treaty stipulate what status should be attributed to Court of Auditors special reports.

Moreover, the remarks contained in the resolution forming part of the decision granting discharge (Article 89(4) of the Financial Regulation) do not, in terms of the Treaty, have compulsory force vis a vis the Institutions concerned.

The provision of political or even judicial sanctions is a sine qua non of an effective control function. The Treaty should consequently stipulate that:

- The decision granting discharge commits the political responsibility of the Commission or of its Members at the highest level and that refusal to grant discharge is equivalent to a motion of no confidence (Parliament would be free to draw the consequences at institutional level by taking a vote on a censure motion),
- The remarks forming an integral part of the discharge decision have the force of compulsion in relation to the Institutions concerned (a request to have the 'remarks' in the discharge decision made compulsory has already been included in the above mentioned resolution of 11 July 1990 on the Intergovernmental Conference - para. 37);
- The resolutions that Parliament adopts in relation to budgetary control external to the discharge procedure have the same force of compulsion in relation to the Institutions concerned as the resolution forming an integral part of the discharge decision.

VI. INTERINSTITUTIONAL RELATIONS IN THE CONTEXT OF BUDGETARY CONTROL

Cooperation between the European Institutions is essential to ensure efficient standards of coordination in the monitoring of the management of the extensive range of Community policies.

That cooperation should be widened to include the national administrations, having regard to the growing decentralization of Community policy management activities that the Commission is in the process of accomplishing with the application of the subsidiarity principle.

Yet this is another area for which no specific arrangement exists in the financial provisions of the Treaties.

The strengthening of Parliament's budgetary control function would in particular require:

- a) Transparency of information to be enshrined in the Treaty by making it an obligation on the Commission and the Member States to provide Parliament with all necessary information. That obligation, contained in Article 2 of the revised Financial Regulation, is all the more important in consideration of the difficulty that Parliament would otherwise have in keeping track of decentralized Community fund management arrangements;
- b) Parliament, in exercising its political control function, to be authorized to hold inquiries, with an obligation on the Commission, the other Community Institutions and the Member States to supply all necessary information, in particular in cases of inquiries conducted in the area of the budget; Parliament's powers should have a judicial character, as in the case of the parliaments of a number of Member States (Italy, France, Netherlands, Germany, UK, etc.); the European Parliament should be empowered to summon civil servants and private citizens, and to hear them as witnesses under oath;

- c) Parliament should enjoy a right of recourse to the Court of Justice for all violations of obligations incumbent upon the Commission, the Community Institutions and the Member States exercising decentralized management, inasmuch as such obligations result from statements contained in the discharge decision, resolutions adopted by Parliament in relation to budgetary control, or the right to information that the Treaty will eventually provide in favour of Parliament;
- d) The Court of Justice to be given the power to impose sanctions, including financial sanctions, for violations of obligations as set out in (c) above (cf. paragraph 29 of the resolution of 11 July 1990 on the Intergovernmental Conference);
- e) The role of the Court of Auditors, as the institution of technical control answerable to Parliament, itself the political control authority, to be strengthened by stipulating the following in the Treaty:
- Parliament's right to obtain from the Court of Auditors reports on any subject relating to the area of budgetary control;
 - Parliament's power to appoint members of the Court of Auditors.

It should be stressed in this connection that the Court of Auditors can be expected to develop its full potential to the extent that it can establish close links of cooperation with the Institutions for which its indispensable activities are intended, and in the first instance with the European Parliament.

