

European Communities

EUROPEAN PARLIAMENT

Working Documents

1983 - 1984

20 February 1984

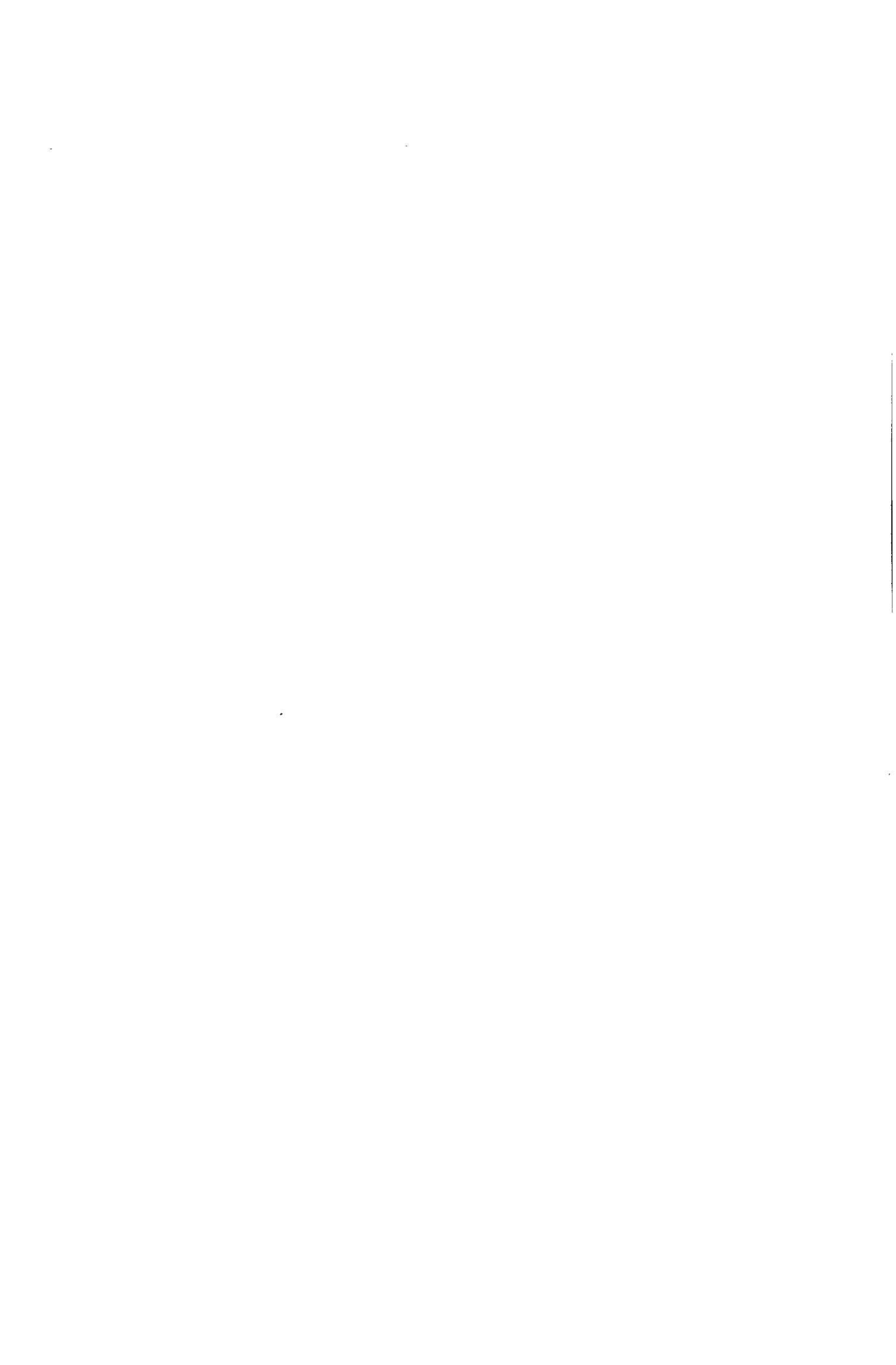
DOCUMENT 1-1390/83

REPORT

drawn up on behalf of the Committee on the Rules of
Procedure and Petitions

on the amendment of the Rules of Procedure with regard
to the procedure for the consideration and adoption of
decisions concerning discharge to the Commission in
respect of implementation of the general budget

Rapporteur: Mr Peter PRICE



By letter of 15 July 1983, the President of the European Parliament requested the Committee on the Rules of Procedure and Petitions, at the request of the chairman of the Committee on Budgetary Control (PE 80.367/fin.), to consider an amendment to the procedure of granting discharge to the Commission in respect of implementation of the general budget (Rule 52 of the Rules of Procedure).

At its meeting of 13 July 1983, the Committee on the Rules of Procedure and Petitions appointed Mr Peter PRICE rapporteur.

At its meetings of 19 December 1983 and 31 January 1984 the committee considered the rapporteur's draft report and at the latter meeting unanimously adopted the following amendment to the Rules of Procedure with one abstention, the proposal for a new annex with six abstentions and the proposal for a decision with four abstentions.

The following took part in the vote:

Mr NYBORG, chairman; Mr PRICE, rapporteur; Mr ALEXIADIS (deputizing for Mr Romualdi), Mrs BOOT, Mr CHAMBEIRON, Mr COSENTINO, Mr ENRIGHT, Mr B. FRIEDRICH, Mr GONTIKAS (deputizing for Mr Papaefstratiou), Mr KALOYANNIS, Mr KLEPSCH (deputizing for Mr Wedekind), Mr MALANGRE, Mr NORD, Mr PATTERSON, Mr PROTOPAPADAKIS (deputizing for Mr Adonnino), Mr SELIGMAN (deputizing for Mr Prout), Mr SIEGLERSCHMIDT, MrSCHWENCKE (deputizing for Mr van Minnen) and Mr VANDEMEULEBROUCKE.

The report was tabled on 6 February 1984.

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A.

The Committee on the Rules of Procedure and Petitions hereby submits to the European Parliament the following proposal for an amendment to the Rules of Procedure and proposal for a decision together with explanatory statement:

The present Rule 52 of
the Rules of Procedure

1. Parliament shall decide, on the basis of a report by the committee responsible, on the granting of a discharge to the Commission in respect of the implementation of the general budget.
2. A motion for refusal to grant a discharge shall be approved only if it obtains the votes of a majority of the current Members of Parliament.

Proposal for a new Rule 52 of
the Rules of Procedure

Implementing procedures for the decision on the granting of a discharge to the Commission in respect of the implementation of the Budget in accordance with the Treaty of 22 July 1975 and the Financial Regulation are attached to these Rules as an annex. This annex shall be adopted pursuant to Rule 112(2).

(see pages 6 to 8).

Proposal for an Annex to the Rules of Procedure
Procedure for the consideration and adoption of
decisions on the granting of a discharge

Article 1 - Documents

1. The following documents shall be printed and distributed:
 - (a) the revenue and expenditure account, the financial analysis and the balance sheet forwarded by the Commission;
 - (b) the report of the Court of Auditors, accompanied by the Institutions' answers; and
 - (c) the Council recommendation.
2. These documents shall be referred to the committee responsible. Any committee concerned may deliver an opinion.
3. Where other committees wish to deliver opinions, the President shall set the time limit within which these shall be communicated to the committee responsible.

Article 2 - Consideration of Report

1. Within the time limits laid down by the Financial Regulation, Parliament shall consider a report from the committee responsible proposing the grant, postponement or refusal of discharge.
2. Parliament's Rules relating to amendments and voting shall apply unless otherwise provided in this annex.

Article 3 - Granting discharge

1. Where the committee responsible considers it appropriate to propose a favourable decision, it shall draw up a report comprising :
 - (a) a proposal for a decision containing the figures forming the subject of the discharge, thus establishing the final outturn of the budgetary management for the financial year concerned;
 - (b) a motion for a resolution containing the comments appended to the discharge decision; and

(c) an explanatory statement.

Where necessary, the explanatory statement may be delivered orally.

2. The Committee responsible shall deliver its opinion on any amendments before they are put to the vote.
3. The proposed decision shall be voted upon before the motion for a resolution. The procedure for granting a discharge shall end with a vote on the motion for a resolution as a whole.

Article 4 - Postponement of discharge

1. The committee responsible may table a motion for a resolution for postponement of the discharge decision. This motion shall set out the reasons for postponement.
2. Such a motion shall be included on the agenda of the next part-session following its tabling.

Article 5 - Refusal of discharge

1. The Committee responsible may table a motion for a resolution for a refusal to grant a discharge. This motion shall set out the reasons for the refusal.
2. Such a motion shall be included on the agenda of the next part-session following its tabling and shall be approved only if it obtains the votes of a majority of the current Members of Parliament.

Article 6 - Referral back to committee

1. If a proposal for a decision pursuant to Article 3(1)(a) or a motion for a resolution pursuant to Articles 3(1)(b), 4(1) or 5(1) fails to obtain the required majority or if any amendment to the figures contained in the decision pursuant to Article 3(1)(a) is adopted, the matter shall be deemed to have been referred back to the committee responsible, which shall report back to Parliament at the subsequent part-session, taking into account Parliament's vote.
2. Where this would result in Parliament's being unable to grant a discharge within the time limits laid down by the Financial Regulation, the President shall inform the Commission accordingly.

Article 7 - Implementation of discharge decisions

1. The President shall forward any decision or resolution of Parliament pursuant to Articles 3, 4 or 5 to the Commission and to the each of the other institutions. He shall arrange for their publication in the Official Journal of the European Communities in the series appropriate to acts of a legislative character.
2. The Committee responsible shall report to Parliament at least annually on the action taken by the institutions in response to the comments appearing in the discharge decisions.

PROPOSAL FOR A DECISION

embodying provisions for the amendment of the Rules of Procedure with regard to the procedure for the consideration and adoption of decisions on the granting of a discharge in the European Parliament

The European Parliament,

- A. having regard to Rule 112(1) of its Rules of Procedure,
 - B. having regard to the report of the Committee on the Rules of Procedure and Petitions (Doc. 1-1390/83),
1. Decides to incorporate the preceding amendments and the attached annex into its Rules of Procedure;
 2. Instructs its Secretary-General to ensure that the texts thus amended are absolutely uniform in the seven official languages;
 3. Instructs its President to forward this resolution for information to the Council and the Commission of the European Communities.

B.

EXPLANATORY STATEMENT

The need for new rules

Parliament's present rules relating to the grant of discharge are brief. They are contained in Rule 52 and lay down only two matters of substance :

- that the decision on discharge will be taken by Parliament on the basis of a report by its committee responsible;
- that a motion to refuse a discharge shall be adopted only if approved by a majority of current members (i.e. 218 votes).

The power to grant or refuse discharge is one of Parliament's main powers, together with its right to reject the budget, to dismiss the Commission and to be consulted on legislation. The power of discharge gives Parliament the power to require detailed and specific information from the Commission and any of the other institutions, so as to ensure the efficient use of the Community's financial resources. Thus the existence of the power to refuse discharge has far reaching significance irrespective of whether Parliament actually uses its power of refusing discharge.

It is a comparable power to that of dismissing the Commission. The fact that Parliament has not yet passed any such vote of censure does not reduce its impact on the relationship between the two institutions. There is another, even closer, parallel between the two powers. It is generally assumed that normally a refusal of discharge would be tantamount to a vote of censure and, therefore, that the Commission would likewise resign. So the provisions of the rules relating to the grant of discharge need to be clear and precise. They need to cover the foreseeable situations of difficulty which may arise.

It is recognised that the present rules do not meet these criteria. The Budgetary Control Committee have made proposals which reflect their wishes. These proposals have been considered by the Rules Committee with two objects in mind :

- a) to secure the effective use of Parliament's powers, in accordance with the Treaty and the Financial Regulation; and
- b) to ensure that the Rules of Parliament are a homogeneous document, using the same words, meanings and procedures, so far as possible, rather than a series of disparate pieces of text.

The Treaty and the Financial Regulation

The Treaty of 1975 "amending certain Financial Provisions" made provision for the Court of Auditors to be established and for Parliament to grant discharge to the Commission in respect of the implementation of the budget. Article 17 added a new Article 206 b to the EEC Treaty of 1957. It reads as follows :-

"The Assembly, acting on a recommendation from the Council which shall act by a qualified majority, shall give a discharge to the Commission in respect of the implementation of the budget. To this end, the Council and the Assembly in turn shall examine the accounts and the financial statement referred to in Article 205a and the annual report by the Court of Auditors together with the replies of the institutions under audit to the observations of the Court of Auditors."

Title VI of the Financial Regulation deals with Presenting and Auditing Accounts. Article 85 deals with the grant of discharge as follows :

"The European Parliament, upon a recommendation from the Council, which shall act by a qualified majority, shall, before 30 April of the next year, give a discharge to the Commission in respect of the implementation of the budget. If that date cannot be met, the European Parliament or the Council shall inform the Commission of the reasons for the postponement.

The financial controller shall take account of the comments made in the decisions giving discharge.

The Institutions shall take all appropriate steps to take action on the comments appearing in the decisions giving discharge. At the request of the European Parliament or the Council, the Institutions shall report on the measures taken in the light of these comments and, in particular, on the instructions given to those of their departments which are responsible for the implementation of the budget. Such reports shall also be forwarded to the Court of Auditors.

Subject to the second sentence of the third paragraph, the Institutions must give an account, in an annex to the revenue and expenditure account for the next financial year, of the measures taken in the light of the comments appearing in the decisions giving discharge."

The main requirements which flow from these legislative provisions are as follows :

- (i) Parliament must act on the basis of a recommendation from the Council (although not necessarily in accordance with it);

- (ii) Parliament must first examine certain documents specified in the Treaty;
- (iii) the discharge must be given by 30 April each year (i.e. not more than 16 months after the end of the year in question) unless "that date cannot be met";
- (iv) if there is any such postponement, the Commission must be informed of the reasons;
- (v) the institutions must take all appropriate steps to take action on the comments appearing in discharge decisions and must report formally on the measures taken.

Drafting the new rules

The Budgetary Control Committee made its proposal in the form of an annex to the Rules and this format has been adopted by the Rules Committee. It is a close parallel to the annex setting out the implementing procedures for examination of the general budget. Thus Rule 52 itself will no longer contain the substance of the rules but will act simply as an authorisation for the annex.

The annex sets out :

- the documents to be distributed;
- the responsibilities of Parliamentary committees;
- the contents of the report from the committee responsible;
- the procedure for debate, amendments and voting in the plenary;
- action to be taken following decisions concerning discharge.

The annex has been drafted in a form which lends itself to easy reference by setting out the procedure relating to each type of decision - grant, postponement or refusal of discharge - in a separate Article. It also avoids repetition by (a) incorporating Parliament's general rules on amendments and voting unless otherwise provided in the annex and (b) gathering together in Article 6 all the various circumstances which may require reference back to committee.

Conclusion

It is hoped that the draft now proposed underlines the importance which Parliament attaches to decisions concerning discharge; that it provides sufficiently clear and detailed rules to avoid uncertainty and consequent procedural arguments; and that it is sufficiently flexible to allow for all the possible situations which may arise.