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Working Documents

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Report

drawn up on behalf of the Committee on Budgets

on the problems of budgetary law and policy
connected with the proposals from the Commission
of the European Communities to the Council
(Doc. 1-526/80) for

- I. a regulation amending Regulation (EEC) No. 725/79
on financial support for demonstration projects
in the field of energy saving
- II. a regulation amending Regulation (EEC) No. 726/79
on financial support for projects to exploit
alternative energy sources

Rapporteur: Mr G. PFENNIG

On 13 February 1981 the European Parliament adopted a resolution tabled by the Committee on Energy and Research on the Commission's proposals in which it stated that it was unable to deliver an opinion pursuant to Article 235 of the EEC Treaty until the Council had initiated discussions with the European Parliament on the extremely serious problems which these regulations raise for the budgetary powers of Parliament'.

This situation continues unchanged although the European Parliament repeated its request to the Council to enter into such discussions in its letters of 10 June 1981 and 9 December 1981.

By letter of 10 March 1982 the Parliament received an ultimatum from the Council ordering it to deliver its opinion on these proposals by 23 April at the latest, failing which the request for an opinion would lapse and the Council would then adopt the legal act concerned.

In view of the overriding institutional significance of the budgetary problem involved the Committee on Energy and Research asked for responsibility to be transferred to the Committee on Budgets.

The Committee on Budgets confirmed the appointment of Mr PFENNIG as rapporteur at its meeting of 17 March 1982. At its meeting of 1 April 1982 it adopted the present motion for a resolution by Mr PFENNIG by 14 votes to 2, with 2 abstentions.

The following took part in the vote: Mr Lange, chairman; Mr Notenboom and Mrs Barbarella, vice-chairmen; Mr Pfennig, rapporteur; Mr Adam (deputizing for Mr Balfe), Mr Arndt, Mr Georgiadis, Mr Gouthier, Mr Helms (deputizing for Mr Langes), Mrs Hoff, Mr Kellett-Bowman, Mr Key (deputizing for Mr Abens), Mr Newton-Dunn, Mr Price, Mr van Rompuy (deputizing for Mr Adonnino), Mr Saby, Mr Konrad Schön, Mr Wawrzik (deputizing for Mr Croux) and Mr Woltjer (deputizing for Mr Cluskey).

C O N T E N T S

A. MOTION FOR A RESOLUTION	Page 5
B. EXPLANATORY STATEMENT	7

The Committee on Budgets hereby submits to the European Parliament the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on the problems of budgetary law and policy connected with the proposals from the Commission of the European Communities to the Council for:

- I. A regulation amending Regulation (EEC) No. 725/79 on financial support for demonstration projects in the field of energy saving;
- II. A regulation amending Regulation (EEC) No. 726/79 on financial support for projects to exploit alternative energy sources

The European Parliament,

- having regard to its resolution of 13 February 1981¹,
 - having regard to the letter from the President of the Council of 10 March 1982 indicating the advanced stage reached in Council deliberations on the Commission proposals (Doc. 1-526/80),
 - whereas the European Parliament has frequently urged the Council to enter into discussions to solve the problem of the inclusion of figures on resources and staff in regulations, mainly in the field of energy and research, without violating the budgetary powers of the European Parliament,
 - whereas the Council has rejected such discussions, issued an ultimatum to the European Parliament to deliver its opinion by 23 April 1982 and moreover designated consultation of Parliament as optional,
 - having regard to the report of the Committee on Budgets (Doc. 1-99/82).
1. Believes that the only way to avoid further violations of the European Parliament's budgetary powers by the Council is to obtain from the Commission of the European Communities an

¹OJ No. C 50, 9 March 1981, p. 96

assurance of its political commitment to defend the budgetary powers of the European Parliament;

2. Calls on the Commission, therefore, to withdraw its proposals of 13 October 1980 for reasons of budgetary law and policy, until the Council undertakes to incorporate in the regulations the statement proposed by the Commission and supported by Parliament as to the indicative nature of the figures given.
3. Also explains that this call by Parliament amounts to a rejection of the Commission's proposals. Should the Council nevertheless take up these proposals, the European Parliament urgently demands institution of the conciliation procedure with the Council pursuant to the Joint Declaration of 4 March 1975.
4. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

1. Ever since it was consulted on the Commission proposals, the European Parliament has declined to deliver an opinion until discussions had been held with the Council of Ministers 'on the extremely serious problems which these regulations raise for the budgetary powers of Parliament'¹.

2. The annex to the motion for a resolution² provides a detailed explanation for this which need not be repeated here. It should however be pointed out again that the Council, acting against the Commission proposals and the opinion of the European Parliament, has created a 3-tier structure of regulations for these projects on energy saving and the use of alternative sources of energy, involving a basic regulation, implementing regulations for the individual areas and finally regulations establishing the allocation of funds to individual projects. All 3 types of regulation are based on Article 235 of the EEC Treaty, so that consultation of the European Parliament is compulsory. Moreover, the request from the Council for an opinion has already been made and the procedure must be observed (see Decision of the Court of Justice 139/79 of 29 October 1980 on the Council regulation on isoglucose production quotas).

3. In adopting its resolution of 13 February 1981 the European Parliament also wished to ensure, 'that the Council does not issue regulations fixing the amount of spending for major Community policies before the actual budgetary procedure and thus pre-empt decisions by the Commission on the implementation of these policies'.³

4. It is also important to point out that, with the consent of the Council as the other arm of the budgetary authority, sufficient resources are available in the 1982 budget to ensure the continuation of the programmes and projects initiated by the Commission.

¹ See European Parliament resolution of 13 February 1981, paragraph 1

² Doc. 1-836/80

³ Paragraph 14 of the Annex to the resolution of the European Parliament

5. More specifically, the figures provided for in the budget as compared with the maximum amounts fixed by the Council in the regulation are as follows:

	<u>New sources of energy</u>	<u>Energy saving measures</u>	<u>Total</u>
1. Maximum amounts fixed by the Council in the original ceiling regulations	95.000 m	55.000 m	150.000 m
2. Resources (commitment appropriations) entered in the budgets 1978-1981 ¹	133.000 m	69.000 m	202.000 m
3. Figures in 1982 budget	21.010 m	20.000 m	41.010 m
4. Total (2+ 3)	154.010 m	89.000 m	243.010 m

6. This shows that the resources available in the budgets already far exceed the amounts originally fixed by the Council in the regulations. It is therefore totally unnecessary to increase the ceiling regulations in what might be termed a subsequent (and often pre-emptive) budgetary procedure carried out quite independently and unilaterally by the Council.

CONCLUSIONS

The European Parliament should not deliver an opinion to the Council until a satisfactory solution has been found to this problem for the following reasons:

1	<u>New sources of energy</u>	<u>Energy saving measures</u>
1978	11 m	4 m
1979	16 m	16 m
1980	47 m	25 m
1981	<u>59 m</u>	<u>24 m</u>
Total	133 m	69 m

7. Experience in the past shows that once Parliament has delivered an opinion, even if it calls for the conciliation procedure to be introduced if the Council departs from it, the Council fixes the relevant figures in the regulations as it sees fit, in other words there is no way of knowing what amount will ultimately be fixed by the Council for any given project or research programme and that this may be far lower than the amount proposed by the Commission and adopted by Parliament and the Council in the budget.

8. In the case of this concrete example it is important to note that

- the Commission's proposal for an increase for both multi-annual measures totals 105 m ECU,
- the amounts required in the 1982 financial year have been included in the budget (41 million ECU),
- in its deliberations to date, the Council has discussed a figure of roughly 55 m ECU, or possibly as little as 25 m ECU (over a number of years) instead of a total 105 m ECU.

9. These reduced figures in the Council regulations totally vitiate the entire budgetary procedure. A fictitious example may serve to demonstrate that this is a problem not only in the case of these proposals but also in other cases in which there is controversy and in which the European Parliament has taken the precaution of demanding the conciliation procedure with the Council¹:

¹ For example:

- Commission proposal for a decision adopting a research and training programme (1982-1986) in the field of controlled nuclear fusion;
- Commission proposal for a decision adopting a research and development programme in the raw materials sector (1982-1985);
- Commission proposal for a multi-annual Community research and development programme in the field of biomolecular engineering (indirect action 1981-1985).

- The Commission proposes a sum of 100 m ECU for certain measures in the preliminary draft budget.
- The Council reduces these resources in its draft budget to 25 million ECU.
- Exercising its budgetary powers in relation to non-compulsory expenditure, Parliament reinstates in first and second reading the 100 million ECU proposed by the Commission in the budget.
- The Council fixes an amount of 5 million ECU in the regulation.

10. The efforts of the European Parliament to obtain sensible increases in non-compulsory expenditure in various sections of the budget are made ridiculous by the Council the minute it adopts a regulation re-establishing maximum amounts for the projects concerned (e.g. 25 m ECU). The budgetary decisions of the European Parliament, which it has taken in consultation with the Council under its still extremely limited powers during the complicated budgetary procedure, are then virtually abrogated by the Council by means of a regulation.

It is time to put an end to this practice once and for all.

11. To prevent the Council continuing with its previous practice of arbitrarily fixing amounts in the regulations, the European Parliament should declare itself unable to deliver an opinion on the proposals for regulations from the Commission.

12. There is however the risk that, just as if an opinion had been delivered, the Council will nevertheless enact regulations containing arbitrary figures thus setting aside the budgetary powers of the European Parliament. The only way of avoiding this is for the Commission to withdraw its proposals for regulations to prevent the Council taking a decision on them.

13. As far as the implementation of the measures are concerned, this approach does not really lead to deadlock: as the Commission proposals and sectors chosen have already been established by basic

and implementing regulations and the current conflict simply concerns the level of expenditure, there is nothing to prevent the Commission spending the resources approved in the 1982 budget on the programmes envisaged or entering into commitments for these amounts. The implementation of the projects by the Commission does not need the ceiling regulations put forward.

14. Should the Commission's project proposals, which are covered by the resources approved in the 1982 budget, nevertheless be blocked by a Member State, the Commission or any Member State (see Regulation No. 1302/78 of 12 June 1978, Article 6(2)!) can seek a Council decision by a qualified majority, since the problem - thanks to the Council (division of measures into three categories of regulation) - solely relates to the level of expenditure and under the Treaties such problems can, of course, be resolved by majority decisions.

