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REPORT

drawn up on behalf of the Committee on Budgetary Control
on

- I. the accounts of the European Parliament and the discharge in respect of the 1979 financial year
- II. the discharge to be granted to the Commission on the implementation of the budget of the European Community for the 1979 financial year and the report of the Court of Auditors (Doc. 1-662/80)
- III. the discharge to be granted to the Commission of the European Community in respect of the utilization of the appropriations of the fourth European Development Fund in the 1979 financial year
- IV. the comments accompanying the decisions granting a discharge on the implementation of the budget of the European Community for the 1979 financial year (Article 85 of the Financial Regulation of 21 December 1977)
- V. the discharge to be granted to the Commission of the European Community in respect of the activities of the first, second and third European Development Funds in the 1979 financial year

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Part B. Explanatory statement

PE 71.959/Part B/fin.

EXPLANATORY STATEMENTA. Introduction

1. Pursuant to Article 206b of the Treaty establishing the European Economic Community, the European Parliament, on a recommendation from the Council which decides by a qualified majority, gives a discharge to the Commission in respect of the implementation of the budget. Article 85 of the Financial Regulation of 21 December 1977 applicable to the general budget of the European Communities gives further details of provision : The third subparagraph thereof states : 'The Institutions shall take all appropriate steps to take action on the comments appearing in the decisions giving discharge.' It is the Committee on Budgetary Control which is responsible for preparing the discharge decisions and the accompanying comments.

2. The discharge procedure, and indeed the activities of the Committee on Budgetary Control in general, probably seem to be almost an occult science to many Members of the European Parliament. Many at least feel that they are purely technical matters which are therefore justifiably dealt with discreetly removed from the gaze of the public and virtually unnoticed even by the majority of Members.

3. However, this approach is clearly misguided. The preparation of the discharge procedure in committee does admittedly require a meticulous analysis of the financial activities of the institutions in all their specialized technical details and minute ramifications. However, this technical work is all directed towards single objective, which is the final political assessment of the Commission's activities during the financial year in question. The proposed decisions on the discharge and accompanying motion for a resolution which are submitted to the plenary represent an invitation to the whole Parliament to undertake this

definitive assessment and to grant or refuse a discharge to the Commission in respect of the work of the year under consideration.

It should not be thought that, since this assessment relates initially to a financial year which has already closed, the discharge procedure is of purely historical interest. Article 85 of the Financial Regulation, which requires the institutions to take practical measures in the light of the comments contained in the discharge decisions, makes it quite clear that the discharge procedure is indeed of immediate importance for the future development of the Community and its organs. In this sense the exercise by Parliament of its discharge powers is a matter of high politics which is central to Parliament's rights, especially since, contrary to the procedure for the adoption of the budget, Parliament has sole decision-making powers in this field.

4. The reduced powers that Parliament would possess if its budgetary powers were not backed up by the powers relating to the discharge clearly illustrate the fact that value of the latter cannot be overestimated.

5. In the debates on the 1979 budget (and on subsequent budgets) the European Parliament, to a greater extent than in previous years, regarded the Community budget as a political instrument to be used to promote integration in the Community and as a practical political programme for the financial year in question. Whereas under the Council's influence the objectives of previous Community budgets had been confined to drawing up accounts for the financial implications of decisions taken elsewhere, in 1979 Parliament gave priority to using the budget as an active instrument of integration policy and giving it an independent role in the shaping of the economy of the Community and of the Member States.

6. The attempts by the Finance Ministers and Ministers for Economic Affairs to develop an independent Community economic policy in order to solve, jointly or at least by mutual agreement, the structural problems facing all the Member States, had not got beyond the initial

stages. Parliament therefore sought to use the appropriations in the 1979 budget to give fresh impetus to these efforts. In 1978 the Member States were faced with the increasingly pressing problems of growing unemployment. In order to solve these problems, Parliament attached particular importance during the budget procedure to an increase in the resources allocated to the Social Fund, with the specific aim of combatting unemployment, above all among particularly vulnerable sections of the population, such as women and young people. Similar motives lay behind the attempt to increase the allocation to the Regional Fund with a view to introducing structural improvements in the less prosperous regions which were particularly hard hit by unemployment. Parliament likewise sought to promote industrial policy in order to alleviate the consequences of structural crises in the worst-hit sectors and, if possible, to eliminate the actual causes of these crises.

7. The European Parliament also strove to establish a more concentrated system of Community financing in order to step up integrated measures. In the budget debates Parliament was clearly concerned with the fundamental question as to the role a Community budget can reasonably be expected to fulfil. Of prime importance in this connection was the recognition that the Community's activities should be concentrated in these areas where the Member States alone cannot intervene or cannot do so efficiently, or where Community action can achieve the desired result on the whole more cheaply, economically and rationally than action taken by the individual Member States.

8. In its capacity as an arm of the budgetary authority Parliament viewed the 1979 budget debates as a further reflection of the determination to establish a practical political action programme for 1979. Measures recognized as appropriate and necessary were to be implemented not at some unspecified point in the future but during the year for which the relevant appropriations were entered in the 1979 budget. In its resolution on the draft budget for 1979 Parliament stated that

the implementation of the budget as an instrument of Community structural policy should concentrate on the following priorities :

- Social Fund: fight against unemployment among young people and women
- Regional Fund, including non-quota section appropriations
- agricultural structures
- transport infrastructure
- marine policy
- energy policy: new energy sources - energy savings
- industrial policy
- environmental protection
- research
- education
- development aid.

9. Although the European Parliament did not succeed, either in 1979 or in subsequent years, in gaining full recognition for its views in the budget as finally adopted, on the whole it managed to enforce its political will to a considerable extent.

10. If Parliament did not possess these powers relating to the discharge its political will could simply be ignored during the financial year by the Council and Commission, either individually or in collaboration. As in the past the budget could simply be seen as the transcription into the accounts of policies which would be decided elsewhere and in any event not in conjunction with the budget.

11. If it were not for Parliament's power to grant a discharge, it would be all too easy for the Commission to avoid implementing Parliament's wishes by asserting that the budget is not legally binding, merely represents a series of statements of intent in vowing no obligation, and, in any event, requires for its implementation supplementary political decisions by the Council.

12. However, this view of the legal situation (which, in some sectors at least, is unfortunately still maintained by the Commission) clearly conflicts with the fact that Parliament, and Parliament alone has the right, under the discharge procedure, to make a political assessment of the implementation of the budget. It is no coincidence that Parliament's powers in respect of the discharge have developed as its budgetary powers have been extended. Article 206b of the Treaty establishing the European Economic Community, which gives Parliament sole power to grant the discharge, was not inserted until provisions were introduced granting Parliament its existing powers in respect of the procedure for adopting the budget. This too emphasizes the fact that the powers relating to the discharge constitute a necessary and logical extension of the European Parliament's budgetary powers.

13. Its responsibility for the discharge naturally implies that Parliament also has the possibility of refusing to grant the discharge. The consequences of such a refusal are not explicitly dealt with in the Treaties. In political terms, however, a decision by Parliament refusing to grant a discharge would amount to a vote of censure on the Commission. This was the logical conclusion reached by Mr Tugendhat Member of the Commission, in his statement to the European Parliament on 7 July 1977 that : 'Such a refusal would hence be extremely serious; the Commission thus censured would, I think, have to be replaced.'

14. In accordance with Article 144 of EEC Treaty, the procedure under which the European Parliament can pass a motion of censure on the Commission and oblige it to resign is subject to special conditions. In particular, a certain period must elapse before the vote on the motion which, for adoption, requires a double quorum. These special conditions would of course not be met if Parliament were to decide by a simple majority (which is sufficient) to refuse to grant a discharge to the Commission, or if a motion granting such a discharge did not obtain the required

simple majority in the plenary. Such a decision, though taken only by a simple majority of Parliament, would nevertheless have far-reaching consequences. If the Commission did not resign of its own accord, in line with Mr Tugendhat's interpretation, this would certainly constitute sufficient grounds for tabling a motion of censure pursuant to Article 144. In this connection, it should make no difference whether the Commission in office at the time of the discharge procedure was also the body responsible for implementing the budget in question. Although its membership changes, the continuity of the Commission as an institution should be the main factor.

15. But even a granted discharge has implications for the Commission. Under Article 85 of the Financial Regulation the European Parliament's comments in its resolution on the discharge decisions are binding on the institutions, and in particular on the Commission. The Commission must consequently act on Parliament's comments either by the deadline explicitly laid down in the resolution or at least within a reasonable period. If it fails to do so, Parliament inevitably has to decide whether to table a motion of censure pursuant to Article 144 of the Treaty in view of the failure to take account of its wishes as expressed in the resolution.

16. The European Parliament's comments in the resolution attached to the discharge decisions should therefore be seen principally as instructions in the technical sense, which are to be carried out by the Commission by the given deadline or within a reasonable period.

B. Explanation of the individual sections and paragraphs of the motion for a resolution

17. The following sets out briefly the considerations which led the Committee on Budgetary Control to put forward the proposals contained in

the motion for a resolution. Particular reference is made to those points which caused controversy in the committee and in these cases the minority opinion is also given.

1. The role of the Court of Auditors in the discharge procedure

18. The preparation of the discharge procedure is based on the annual report of the European Court of Auditors (paragraph 1). Unfortunately, the committee again this year had very little time in which to complete its work, which therefore considerably less thorough than it might be. Paragraph 3 is designed to prevent a recurrence of this unfortunate state of affairs. It would be a considerable help if the Committee on Budgetary Control, on behalf of Parliament, could begin its preparatory work in September instead of at the earliest in December as in the past. Some Members feared that the committee's objectivity might be jeopardized if account were taken initially of the Court of Auditors' remarks alone without the replies of the institutions. However, the majority felt that the committee members were sufficiently reasonable and impartial to be able to assess these replies objectively and in full, even if they did not become available until after the Court of Auditors' comments.

19. Not for the first time a dispute arose between the European Court of Auditors and the Commission as to whether the Court was entitled to add comments to the replies of the institutions to its initial remarks. An overwhelming majority of the Committee on Budgetary Control feel that the legal point of view put forward by the Court of Auditors in this connection is correct and that its comments are of value. In any event it is Parliament, and not either of these two institutions, that has the final word in the discharge procedure. Since this has been a point of contention for years, it is felt that the majority opinion in the committee should be explicitly set out in paragraph 2.

II. Compliance with the budgetary principles

20. The problem of transfers of appropriations, which undermine the principles of the annuality and specificity of the budget, has still not been satisfactorily solved.

21. In particular, the principle of annuality was blatantly flouted in 1979 when, in December of that year, an amount 203.5mEUA in the EAGGF, Guarantee Section, was spent contrary to express provisions and without budgetary authorization. It was then charged to the 1980 budget, although, in accordance with the Financial Regulation and in particular Article 98 thereof, it should clearly have been charged to the 1979 budget.

22. The European Court of Auditors recommended Parliament to insist that this amount be re-entered as expenditure in the revenue and expenditure account and the balance sheet for the financial year ending 31 December 1979.

23. The question as to whether Parliament should act on the Court's recommendation was throughout strongly disputed in the Committee on Budgetary Control. Moreover, the Commission also resisted this demand to the very last. The following paragraphs briefly set out the arguments put forward by those who opposed the recommendation and explain why they are fallacious.

24. Firstly, it was maintained that reclassification would affect the maximum rate of increase referred to in Article 203(9) of the EEC Treaty, both for 1980 and for subsequent years. This is incorrect, since it would affect only compulsory, not non-compulsory, expenditure.

25. Secondly, it was pointed out that if the amount of 203.5 m EUA was transferred to the 1979 accounts the percentage rate forming the basis of assessment of value added tax, which had been fixed for 1980 would have to be changed. This argument is likewise invalid, since the amount in question would disappear from both the expenditure and revenue sides of one set of accounts and be entered on both sides of the other set. Value added tax is used to cover the shortfall in the Community's own resources which results when total expenditure is set against the other own resources (customs duties, agricultural levies, other revenue). The fact that the amount of 203.5m EUA was charged not to the 1979 but to the 1980 accounts automatically resulted in a corresponding increase in the surplus for 1979. The correction proposed by the Court of Auditors would thus mean that the amount in question would disappear from both the expenditure and the revenue sides of the 1980 accounts, since the surplus revenue from 1979 would be reduced by a corresponding sum. The considerable disparity between other own resources (excluding VAT revenue) and expenditure, which is to be made good from VAT revenue, would thus be totally unaffected by the reclassification. The Commission was unable to substantiate its claim that this manoeuvre would be expensive and involve a considerable amount of work. The Court of Auditors maintained, and this has not been contradicted, that the operation was a simple and straightforward one.

26. The Commission also asserted that the accounts could be corrected only if the 1980 budget was modified or if a new supplementary or amending budget was subsequently adopted. This argument is also without foundation. By its very nature each budget is no more than a preview, a rough estimate. What happens in the course of a financial year with regard to both revenue and expenditure never accords exactly with what is entered in the budget. If for example at the end of the financial year it emerges that revenue was higher or expenditure lower than provided for in the budget, this produces a surplus which is carried

over to the following year. If the reverse happens, a deficit is produced which is likewise carried over into the following year, this time on the expenditure side. A situation in which, as in the case in question, expenditure in a financial year exceeds the amount authorized in the budget, is of course to be strongly disapproved and deeply regretted. However, this error cannot be corrected by a further error which also falsifies the accounts. Quite apart from the question as to whether, in any case, a supplementary or amending budget can be produced for a financial year which has already closed (the majority of the Committee on Budgetary Control consider this to be impossible), the preparation of corrected accounts in no way presupposes a modification to the budget. The budget represents an estimate of what 'ought' to happen, while the accounts reflect what actually does happen, and the two do not necessarily agree. Deviations from what 'ought' to happen regularly occur, although the case involved here, that is, with expenditure exceed the budgetary authorization, is fortunately exceptional. However, even this exceptional case calls simply for the accounts to be corrected accordingly and not for any amendment to the initial estimate as set out in the budget. If this was so, every deviation for example the failure to spend some or all of the money available in the budget. This of course does not happen. Such cases merely affect the accounts, where they are reflected accurately. The Court of Auditors rightly criticized the fact that the 1979 accounts are incorrect since they do not include the additional expenditure of 203.5m EUA. This amount should be entered on the expenditure side of the 1979 accounts with a corresponding reduction in the surplus for that year. The relevant corrections should then be made to the accounts for the 1980 financial year : expenditure is to be reduced by 203.5 m EUA as is revenue, since the surplus carried over from 1979, entered under revenue, will be reduced by the same amount.

27. Finally, the Commission also objected that the inclusion of this amount in the 1979 accounts, (an incorrect operation, in the view of the Court of Auditors and a majority of the Committee on Budgetary control which should be rectified), had been sanctioned by the budgetary authority when the latter established the surplus carried forward from 1979 to 1980, including the 203.5 m EUA in question, in the first and second supplementary and amending budgets for 1980 adopted on 20 November and 23 December respectively. There are two replies to this: 1. Even the supplementary and amending budgets are no more than estimates. Their adoption on false assumptions is regrettable but cannot be allowed to sanction accounts drawn up earlier in error.

2. The position of the European Parliament as discharge authority would be completely undermined if the possibility existed of preempting the discharge decision by budgetary decisions taken by the European Parliament as a part of the budgetary authority. As discharge authority the European Parliament must be free to decide whether the accounts of the budgetary year under scrutiny have been conducted correctly and whether, and possibly to what extent, the Commission can be granted a discharge.

28. To sum up the position with regard to this problem, a majority of the members of the Committee on Budgetary Control consider that the recommendation of the Court of Auditors should be respected and that a discharge can only be given if the amount of 203.5 m EUA is included in the 1979 expenditure. Accordingly this amount, to be precise 203,483,472.3 EUA, has been entered on the expenditure side in the second proposed discharge decision, on page 8 of the draft report. The Commission is thus asked, in paragraph 11 of the motion for a resolution, to accept the consequences of the discharge decision and to put down the full amount to the 1979 accounts and at the same time to correct the accounts for the 1979 surplus accordingly.

29. The budget of the European Parliament also includes a transfer of 2.681 m EUA from 1979 to 1980 in respect of which not all the very precise dispositions of the Financial Regulation were observed on all points. Parliament was of course acting in good faith at the time, referring to an internal arrangement with the Council. However, a majority of the Committee on Budgetary Control believe that the provisions of the Financial Regulation should be very strictly observed by all the institutions, including the European Parliament, as Parliament would

otherwise be liable to sacrifice the authority which it requires when it demands that other institutions should be strict in this observation of regulations. In this case the accounts have already been corrected as desired and the institutions concerned have declared that the provisions will be strictly complied with in the future.

30. A problem which has been discussed repeatedly for years is one which arises from the fact that, although the European Parliament has budgetary powers, it has no real legislative powers. This is relatively unproblematical when the Council enacts legislation with financial implications, even against the will of Parliament: in such cases these commitments can and (as the expenditure concerned is compulsory) must be considered during the budget deliberations. But what happens when the Parliament, as part of the budgetary authority (and particularly in respect of non-compulsory expenditure), forces through budget decisions in the absence of any corresponding legislative decisions on the way in which the money is to be utilised? Here paragraph 14 of the motion for a resolution points out that the under-utilisation of resources in these areas to which Parliament attached particular importance in its amendments to the 1979 budget is due not least to the fact that the Commission continues to refuse to recognise the budget in every case as an adequate basis for the utilisation of appropriations. Concrete examples of this are energy policy (see also paragraph 49) and financial and technical assistance for non-associated developing countries (see also paragraph 58).

31. Taken to extremes, continuation of this practice could totally undermine the budgetary powers of the European Parliament in the area of non-compulsory expenditure which is so important to it. What use would budget decisions of the European Parliament be if the Council refused or failed to pass supplementing legislation and the Commission took the view that without this legislation it was unable to execute the budget in accordance with the will of Parliament as expressed in the budget decisions? Unfortunately this has happened many times in the past, and happened again in 1979.

32. The Commission does not dispute the principle that the budget is a necessary legal basis for the utilization of resources, and that money may only be disbursed when a corresponding budgetary appropriation exists.

However, the Commission has repeatedly contested the fact that the budget represents not only a necessary but rather a sufficient legal basis for the utilisation of approved appropriations. It tends to take the view that even if appropriations are expressly made in the budget they cannot be disbursed in the absence of supplementing legislation from the Council.

33. In the opinion of the majority of the Committee on Budgetary Control, the European Parliament is unable to accept this legal view. Otherwise the budget would consequently lose any legal significance in all those cases where there was no back-up legislation. In all such cases the budget decisions themselves would be totally ignored, and the Council could, outside the budgetary procedure, in its capacity as legislative authority, simply by doing nothing block all those policies which the Parliament has got the Council to accept in its capacity as part of the budgetary authority during the budgetary procedure. That this is not right can be seen from the fact that, as explained above, the Parliament's budgetary powers could be undermined in those very areas where Parliament has the last word. But another reason why it cannot be accepted is that in practice it gives simple legal provisions enacted by the Council higher standing than the budget itself. The budget should have the higher standing because, in contrast to the legal provisions enacted by the Council, it is the result of an extremely complex procedure, sometimes requiring specific qualified majorities, in which the Commission and both arms of the budgetary authority, namely the Parliament and the Council, take part. The majority of members of the Committee on Budgetary Control find it unacceptable that part of the budget can in fact be completely invalidated by the simple inactivity of the Council in the rest of its legislative sphere. As the conflict between the Parliament and the Commission on this point has now been dragging on for several years, it is the feeling of the majority that it is now time to ask the Commission for an unequivocal declaration that it is prepared to recognize the budget as the legal basis for the utilization of appropriations (paragraph 15). As a contribution to a constructive solution of the problem the Committee proposes in paragraph 16 the setting up of a mixed working party to work out with the Commission how this principle can be applied in individual cases in the future.

As Parliament does not of course dispute the Council's right to regulate the way appropriations are utilised through supplementing legislation, and as at the same time it can no longer be accepted that certain areas of the budget should be disregarded both legally and politically, methods must be found for the solution of this conflict. Merely as an example paragraph 16b puts forward for discussion the possibility of introducing time-limits by the end of which the Commission must initiate and carry out the policies adopted in the various lines of the budget, without any need for additional legal provisions.

34. Paragraph 17 goes on to propose that the results of the work outlined in paragraph 16 should then be discussed with the Council, which bears, through its inactivity, the main responsibility for the present unsatisfactory situation. As, however, the Parliament cannot force the Council to pass legal provisions at all, it must concentrate on the Commission. Is it possible for the Parliament to insist that, given certain conditions, the appropriations in the budget should be utilized even if there is no supplementing legal basis? Parliament could exert pressure by refusing to give the Commission a discharge, or by passing a vote of censure on the Commission.

35. Paragraph 18 repeats Parliament's old demand that the principle of budgetary unity should at last be adopted, and all the financial activities of the Community should be included in the general budget. In particular, borrowing and lending activities and the operations of the European Development Fund must at last be included in the budget.

36. Of course, the under-utilisation of resources again in 1979, in particular in respect of commitment appropriations (paragraph 20) is not exclusively due to the above legal problems. The Committee on Budgetary Control believes that the greatest care must be taken in future in the budgetary procedure itself that only those resources should be entered in the budget which can be expected to be utilised in the course of the financial year (paragraph 22, see also paragraph 55).

III. The situation as regards the assets and liabilities of the European Community