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DOCUMENT 143/76

Report

drawn up on behalf of the Committee on Budgets

on the ~~role~~ and function of parliamentary control of Community resources and
expenditure

Rapporteur: Mr M. COINTAT

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By decision of Parliament of 15 December 1975, the Committee on Budgets was consulted on Working Document No. 2 of the European Council of 1 and 2 December 1975 on the budget and financing of the Community.

It decided to deliver an opinion on those aspects relating to the role and function of parliamentary control of Community resources and expenditure dealt with in the above Working Document of the Council, and appointed Mr Cointat rapporteur at its meeting of 19 February 1976.

It considered Mr Cointat's draft report and the problems in question at its meetings of 28 April, 12 and 19 May and 3 June 1976.

At its meetings of 19 May and 3 June it adopted the motion for a resolution and explanatory statement by 11 votes in favour with 1 abstention.

Present: Mr Lange, chairman; Mr Aigner, vice-chairman; Mr Cointat, rapporteur; Mr Artzinger, Lord Bruce of Donington, Mr Fletcher, Mr Früh, Mr Hansen, Mr Lautenschlager, Mr Memmel (deputizing for Mr Galli), Mr Mursch and Mr Yeats

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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 role and function of parliamentary control of Community resources and expenditure

The European Parliament,

- having regard to its resolution of 27 June 1974¹, and in particular paragraph 5 thereof, in which it reserved the right to:
'add to the resolution in the light of the increased budgetary powers that the European Parliament expects to be granted as a result of the revision of the Treaty of 22 April 1970';
 - having regard to the Treaty of 22 July 1975 amending certain financial provisions of the Treaties establishing the European Communities;
 - having regard to the outcome of the deliberations of the European Council of 1 and 2 December 1975;
 - having regard to the report of the Committee on Budgets (Doc. 143/76)
1. Stresses the complementary and inseparable nature of its responsibilities for authorizing and controlling Community resources and expenditure;
 2. Notes that Community control is organized and operates in a wholly unsatisfactory manner and that this causes serious difficulties;
 3. Likewise notes with regret that the Council's reluctance to draw up Community rules and methods of control is the main cause of the present difficulties;
 4. Considers that its control functions should:
 - (a) be such as to avoid duplicating other forms of internal and external control but instead combine them with a view to drawing political conclusions,
 - (b) cover on a permanent and retrospective basis all Community resources and expenditure,
 - (c) make use of the close and permanent assistance of the Court of Auditors and the help of Community and national administrations,
 - (d) be accompanied more frequently by sanctions under Article 92 of the Financial Regulation which provides that:

'The institutions shall take all appropriate steps to take action on the comments appearing in the decisions giving discharge'.

¹ OJ C 85, 18 July 1974, p. 22

² OJ L 116, 1 May 1973

5. Confirms:
 - (a) its decision to set up - as from the beginning of the 1976/77 session of Parliament - a sub-committee of the Committee on Budgets responsible for supervising expenditure;
 - (b) that this sub-committee shall consist of 9 members (with named substitutes) and that the quorum necessary for deliberations shall be 3 members;
6. Authorizes the sub-committee of the Committee on Budgets to publish if it thinks fit, the minutes and reports of its proceedings;
7. Considers likewise that work connected with the control of the implementation of Parliament's budget will fall within the sub-committee's terms of reference.
8. Also reaffirms that that sub-committee should be granted the powers of information and investigation referred to in paragraph 4 of the same resolution, i.e.:
 - (a) the forwarding, both by the Community institutions and by the national authorities, of all documents relating to the implementation of Community expenditure;
 - (b) the hearing of officials or experts from the Community institutions and Member States responsible for matters connected with the implementation of Community expenditure;
 - (c) the carrying out of inspection visits to the Community institutions and national bodies whose activities are connected with the implementation of Community expenditure;
9. Authorizes the Committee on Budgets and its sub-committee to contact the Council and Commission - as well as the Audit Board and later the future Court of Auditors - in order to consider the legal and practical problems of exercising such powers of control.
10. Instructs the sub-committee to report to the Committee on Budgets and, with the assent of that committee, to Parliament;
11. Considers it necessary to provide the sub-committee with further assistance to enable it to discharge Parliament's additional control responsibilities.

EXPLANATORY STATEMENTIntroduction

1. At its meeting in Rome on 1 and 2 December 1975, the European Council devoted part of its proceedings to the Community's budgetary problems.

On 15 December 1975, the President of the European Parliament instructed the Committee on Budgets to report on the problems of the control of expenditure and the Community's budgetary policy as discussed by the European Council.

2. Although the European Council adopted no official text at the end of its proceedings, several documents have been distributed and one may assume that they reflect the views of the Heads of State or Government.

3. One of these documents, on budgetary questions, states the following:

'The European Council made a thorough study of the problems concerning control of Community expenditure and the Community's budgetary policy.

- (1) The Council agreed that more effective financial control of Community expenditure is needed and is in favour of early consideration being given to the suggestions put forward by the United Kingdom, German and Irish Heads of Government and to the Commission's proposals.
- (2) The President of the Council and the President of the Commission are asked to contact the President of the Assembly to study the role that this Institution might play, by means of a committee or sub-committee, in controlling Community expenditure.
- (3) The Heads of Government agreed to work towards a swift conclusion of the procedures for ratifying the Treaty establishing a European Court of Auditors, signed on 22 July last in Brussels, so that the Court may begin functioning in 1976.

The European Council noted with satisfaction that indications given by the President of the Commission on the steps already taken to strengthen the powers of the Commissioner responsible for the budget, without prejudice to the collegiate responsibility of the Commission as laid down in the Treaties.

The European Council refers to the agreement reached at the Villa Marlia and formalized at the Council meeting of 5 and 6 November in Brussels on the annual convening of a joint session of Foreign Affairs Ministers and Finance Ministers to make an overall evaluation of Community budget problems. It is of the opinion that these discussions should cover general Community policy, ensure greater coordination between political and budgetary decisions and lead gradually to a multiannual estimation of expenditure to ensure better distribution of Community funds. Next year these discussions should be held in April, on the basis of a communication from the Commission.

The European Council noted the Commission's intention to submit proposals to the Council on the application of the European unit of account to the Community budget.'

4. It seems clear from this document that the European Council tackled budgetary questions from two different angles:

- control of expenditure;
- budgetary policy.

Your rapporteur feels that each of these subjects deserves individual consideration and therefore proposes that two separate reports be drawn up; he also noted that the problem of control is of urgent concern to Parliament in view of the current reorganization of its relevant internal structures.

He therefore proposes to give priority to this problem, and it alone is dealt with in this report.

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5. Of the three paragraphs of the Council's working document that deal with financial control, the second is of most interest to Parliament, since it refers to 'the role that Institution might play, by means of a committee or sub-committee, in controlling Community expenditure'. Your rapporteur has therefore focussed his attention on the problems - of principle as well as of material organization - of parliamentary financial control. He is aware, however, that the concept of control of Community expenditure calls for many other developments that the Committee on Budgets will undoubtedly want to discuss in detail on another occasion.

GENERAL OBSERVATIONS

6. Before tackling the problem of parliamentary control, the anxiety expressed by the Heads of State or Government should be placed in its proper context and it should be remembered in particular that:

- control of expenditure is merely one aspect of the Community's budgetary problems and that other questions are as important and as urgent;
- although it is difficult to measure the exact extent of the control problems, they should not be dramatized;
- the respective responsibilities of the institutions should be clearly differentiated.

7(a) It is essential that the implementation of Community expenditure be strictly and effectively controlled, but it is essential first of all that the budget should faithfully reflect the Community's financial requirements and also that it be adopted under a procedure that complies with democratic requirements. One cannot, however, be unaware of the grave inadequacies of the present budgetary system in the face of these two principles. The European Parliament, in its capacity of budgetary authority, feels that priority should be given to the problems of budgetary authorization and hopes that this point of view will be shared by the other institutions. It is in fact only in so far as the budgetary procedure enables Parliament correctly to assess the need for expenditure that a posteriori parliament control becomes, in its view, really meaningful.

(b) There are control difficulties at present, but it is difficult to measure their extent since, so far, control has been only partial, sectoral or even non-existent. A fairly accurate idea can, however, be formed of the problems encountered in the agricultural sector: during the Commission's audit on the occasion of the Fourth EAGGF Financial Report, it emerged that irregularities noted in the EAGGF, Guarantee Section, from 1971 to 1974 amounted on average to 0.15% of total appropriations allocated; a large part of these irregularities (64%) had already been recovered by 22 June 1975. It seems that these figures stand favourable comparison with the situation existing in a number of Member States.

(c) Without going into the various reasons for these irregularities here, it seems clear that the Council itself is primarily responsible for this phenomenon; the bulk of Community appropriations are in fact spent by the Member States themselves and national administrations will have to cooperate with each other and with the Community institutions before there can be any

improvement in control. It should be noted, however, that the Council has shown evident reluctance in this field by not taking action on several Commission proposals and by even disputing the competence of the Community organs as regards customs cooperation. Moreover, the Council has obstinately refused to authorize the Audit Board to conduct the audit 'based on records and, if necessary, performed on the spot' in the Member States, for which it is responsible pursuant to Article 206 of the EEC Treaty. It is also a fact that the Commission's only proposals on those lines have been made under the Financial Regulation of 1 May 1973.

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8. After having placed these views of the European Council in their proper context and pointed out that the powers to authorize and control expenditure are linked and inseparable, it should be remembered that Parliament has always declared its willingness to assume greater responsibility for control.

9. Its responsibilities have not however been increased until recently:

- until 1970, the Council alone granted the discharge and informed Parliament of its decision;
- since 1970, the power to grant the discharge is held jointly by the two institutions;
- the Treaty of 22 July 1975, which has not yet been ratified, will confer on Parliament alone the power to grant a discharge, on the recommendation of the Council.

10. The Committee on Budgets has, from the beginning, been responsible for matters of control. On 11 April 1973, it set up two Sub-Committees: on the Budget of the Communities (Control of Implementation) and on the Budget of Parliament. Their role in controlling expenditure and the organization of their work were the subject of a resolution adopted by Parliament on 27 June 1974 (rapporteur: Mr M. SCHMIDT)¹.

11. The first sub-committee, under the chairmanship of Miss FLESCH, met nine times between 1 July 1973 and 15 January 1975 and focussed its attention mainly on the following questions:

- 1971 discharge,
- European Court of Auditors,
- enquiry into the Community Computer Centre.

11(a) The second sub-committee, under the chairmanship of Mr GERLACH, concerned itself with the drawing up of the European Parliament's estimates and the control of implementation. It met twelve times between 9 May 1973 and 21 November 1974. It was not reconstituted in March 1975.

¹OJ No C 85, 18.7.1974

12. After the proceedings of the European Council in Rome had been referred to the Committee on Budgets, our committee discussed the matter on several occasions, mainly on the basis of a working document on the 'proposed Community Accounts Committee'¹

13. The Committee's conclusions can be summarized as follows:

- Parliament's resolution of 27 June 1974 remains the basis for the understanding and organization of parliamentary control of expenditure;
- within this framework, the guidelines laid down in the working document quoted above¹ have been taken into consideration; the work of control should be resumed but entrusted to a sub-committee;
- the sub-committee should be composed of nine members (and nine substitutes) and will be required to meet at regular and frequent intervals.

14. The rapporteur has taken account of these conclusions in his report and has merely tried to provide more detailed information on certain questions connected with the definition of parliamentary control, its environment, the sanctions available to it, and its practical organization.

I. Definition of control

15. Parliamentary control of Community finances is part of a three-tier system in which it has a specific role commensurate with its proper nature.

(a) Types of Control

16. The Community has three organs of control, the boundaries between which are often unclear. There are:

- the Financial Controller (internal control), who must approve in advance all revenue and expenditure;
- the Audit Board which exercises external and retrospective control of the implementation of the budget and which should soon be replaced by the Court of Auditors with much wider powers;
- Parliament, responsible for external political control, whose powers of intervention are still to be defined;
- Mention should also be made of the Commission's 'Special Committee of Enquiry' to examine the problem of irregularities in the management of Community funds, particularly the EAGGF²

¹ PE 43.433 and PE 43.433/Ann. - draftsman: Lord Bruce of Donington

² See Working document PE 41.708 of the Committee on Budgets (Rapporteur: Mr M. COINTAT)

17. As the Commission recently stated¹: 'These three forms of control must be reconciled and combined and not simply strung together, if we are to avoid the risk of seeing the monitoring of measures shackle measures themselves'.

(b) Specific nature of parliamentary control

18. Parliamentary control should be less technical (detection of frauds) and less of a book-keeping operation (checking that accounts are in order), but essentially political, in other words it must combine the other forms of control and draw the political conclusions.

19. Since parliamentary control is political, there must be a guide to its objective, methods and permanence:

¹ Communication to the Joint Council of 5.4.76 (COM(76)83 final, p.28)

- parliamentary control is general, in other words it covers all Community resources¹, and expenditure, whether they appear in the budget or not; it is concerned not only with the regularity of financial transactions but also with the need for them and the quality of management;
- control is normally exercised through examination of revenue and expenditure accounts and the report of the Audit Board within the framework of the annual discharge decision; it may, however, be supplemented by more specific control measures relating to the financial implementation of various policies (consideration of the annual financial reports on the EAGGF, the Social Fund, etc.); it may even be still more ad hoc and deal with a particular sector or operation that has given rise to management problems or particularly serious irregularities (e.g. fraud in the milk sector, functioning of the Computer Centre);
- such control is retrospective and should not be subject to a time-limit; it is, by its very nature, permanent. This means that it covers the current financial year as well as previous financial years for which no discharge has yet been granted. It must not be exercised in advance, in other words before expenditure is incurred, since it would then become a form of advance authorization that is not provided for in Community texts; furthermore, it must not interfere with the daily management of funds, for which the Commission alone is responsible.

II. The control environment

20. If parliamentary control is to be exercised effectively, it must have the benefit of external assistance. In the Community, this assistance will be provided in the first place by the Court of Auditors, but also by the Community's administrative bodies and the national administrations.

21.(a) One of the tasks of the Court will be to 'assist the Assembly and the Council in exercising their powers of control over the implementation of the budget'². This assistance is to be of a permanent nature³ and should engender a particularly close relationship between the Court of Auditors

¹To begin with, the control of resources will take the form of overall control, since on the one hand the budget of the Communities is not yet in practice entirely financed by all the own resources laid down in the Decision of 22 April 1970 and on the other hand a more systematic control of resources can only be applied gradually.

² Treaty of 22.7.1975 : new Article 206 (a)

³ See the European Parliament's resolution of 27.6.1974 paragraph 4

and the European Parliament, since by the terms of the Treaty of 22 July 1975 Parliament will be responsible for giving the discharge. In view of this, it would be a pity if the new appellation of 'Court of Auditors' were to make that body's relations with the Parliament formal, or if its quasi-institutional status were to interpose itself as a barrier between the two. On the contrary, the effectiveness of parliamentary control would best be promoted by following the Anglo-Saxon model, where the external control body's prime task is to assist Parliament in the exercise of its control, while fully maintaining its own independence.

(b) In the resolution of the European Parliament¹ referred to above it is stressed that Community administrative bodies and national administrations should render assistance to the parliamentary sub-committee. It should be pointed out, however, that some uncertainty, both legal and political, attaches to this problem. For in fact there is no document which defines the exact obligations of the Commission towards Parliament in the area of financial control, nor clarifies questions such as the transmission of documents, interviews with and interrogation of officials, the point at which officials' responsibility is engaged, etc. The situation is even more unclear with respect to the national administrations (summoning of officials, availability of files, on-the-spot checks, etc.)

22. It should, nevertheless, be noted that the future Court of Auditors will have far-reaching powers of documentary and on-the-spot checks in respect of both Community institutions and the Member States. Since the Court of Auditors is to 'assist' the European Parliament in its control duties, Parliament could thereby indirectly have access to these instruments of control. Such a situation does not, however, seem satisfactory, either in practical or in political terms, and the sub-committee will certainly wish to consider as a matter of priority these issues, which will largely determine the true scope of its control functions.

III. Control sanctions

23. Parliamentary control, if it is to be really effective, must be backed by the power of sanction. Some of these sanctions may be of a negative type consisting, for instance, in a reproof to the Commission for a specific irregularity or instance of mismanagement - or they may be major political sanctions, such as refusal to give a discharge and the motion of censure. The usefulness of these negative sanctions seems rather slight, for they are either purely formal or far too severe.

¹ See the resolution of the European Parliament of 27.6.1974 paragraph 4.

24. This is why it would be more appropriate to give preference to the positive sanction provided for under Article 92 of the Financial Regulation: 'The Institutions shall take all appropriate steps to take action on the comments appearing in the decisions giving discharge', for this provision in effect enables the sub-committee to oblige the Commission to set right any shortcomings discovered by the parliamentary body, and even to lay down by what means this should be done.

25. Another form of 'sanction' could be represented by the publication of the sub-committee's proceedings. This is a reliable deterrent and it has been proposed in the working document referred to above¹; your rapporteur considers that the weapon of publicity should be employed by the sub-committee in certain circumstances and would advise that body to make a point of defining the conditions for its use.

IV. Practical organization of the control

26. It will, of course, be up to the body concerned to organize its own work. Already at this stage, however, we can try to sketch out the likely framework of its activity.

27. Evidently, this framework is determined by Parliament's resolution of 27 June 1974 and by its decision of 13 January 1976 on the establishment of a number of committees, as well as by the guidelines drafted by the Committee on Budgets, which were referred to in paragraph 13 above.

28. It may therefore be assumed that Parliament's control will be exercised through a sub-committee of the Committee on Budgets, consisting of nine members plus nine substitutes, appointed ad personam.

¹ PE 43.433 and Annex

29. Without presuming to lay down precise and definite directives for the members of the sub-committee, we can try here to put together the main points concerning the duties of the sub-committee, the destination of its work, its relationship with the Court of Auditors, its working methods and the organization of its secretariat.

(a) Duties of the sub-committee

30. The sub-committee will, obviously, be concerned with all matters relating to financial control. It would not seem expedient to draw up an exhaustive list of the questions that will be referred to it, since they will be informally agreed with the Committee on Budgets.

31. It should, nevertheless, be made clear that it will be the sub-committee's task to oversee the implementation of the budgets of all the institutions, including Parliament.

32. By way of indication, the main questions to be dealt with by the sub-committee could be the following:

- permanent control over all the Community's expenditure and resources;
- preparation of the discharge to be given in respect of the implementation of budgets;
- specialized financial reports particularly on the EAGGF and the Social Fund;
- quarterly reports on the implementation of the budget.

(b) Destination of the work of the sub-committee

33. It will suffice to recall here the provisions contained in Parliament's resolution of 27 June 1974:

- the sub-committee shall normally report to the Committee on Budgets on the matters which have been referred to it, and more especially on all the 'major' reports which it will be its task regularly to prepare (the discharge, financial reports, etc.)
- it is necessary, however, in urgent cases for the sub-committee to be able, with the approval of the Committee on Budgets, to report directly to Parliament.

34. It is also important for the sub-committee to retain considerable freedom of initiative, i.e. to be able, as required by the needs of the moment, to take up any question relating to control - provided it reports to the Committee on Budgets.

(c) Relationship with the Court of Auditors

35. As stated in paragraph 21 above, it is important that a special relationship should exist between the Court of Auditors and the Parliament, and more particularly the latter's control sub-committee.

36. Similarly, the sub-committee will play a part in the appointment of the members of the Court of Auditors within the framework of the consultation of Parliament on these appointments.

37. The sub-committee will undoubtedly wish to make its co-operation with the Court of Auditors as official and permanent as possible. To this end, emulating the practice adopted in some Member States, it might, for instance, wish to invite the Court to delegate one of its members to each of the sub-committee's meetings.

(d) Meetings

38. It seems likely that the sub-committee will have to hold frequent and regular meetings, particularly at that period of the year when it is working on the discharge.

(e) Secretariat

39. It is evident that a sub-committee of such importance should have a large and competent secretariat permanently at its disposal.

40. According to the working document already mentioned¹, an ad hoc control committee would need, in order to be fully operational, a secretariat composed of:

- 5 new Category A officials;
- 1 new Category B official;
- 5 new Category C officials.

The Committee on Budgets has abandoned in part its proposals, well-founded though they were, in favour of others which represent a strict minimum and for the most part do not necessitate the creation of new posts.

¹PE 43.433 and Annex

These proposals will be given more detailed consideration and, as agreed by the Committee on Budgets, may lead in the light of initial experience to minimum requests for a strengthening of the present establishment plan of the secretariat of the Committee on Budgets when in Autumn 1976, Parliament considers the draft budget of the Communities for 1977.

41. The Committee on Budgets and its sub-committee consider it essential to affirm at this stage:

- (a) the need for coordination between authorization and control matters and thus the need to maintain an integrated secretariat serving both the Committee on Budgets and the control sub-committee;
- (b) the need, in view of the burden of work, to strengthen this secretariat.