

European Communities

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EUROPEAN PARLIAMENT

# Working Documents

1974-1975

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17 February 1975

DOCUMENT 483/74

## Report

drawn up on behalf of the Committee on Budgets

on the letter from the Council of the European Communities on the ~~draft~~ joint  
declaration by Parliament, the Council and the Commission on the establishment  
of a conciliation procedure (Doc. 431/74)

Rapporteur: Mr G. SPÉNALE  
Chairman of the committee

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English Edition

PE 39.488/fin.



By letter of 19 December 1974 the President of the Council of the European Communities requested the European Parliament to deliver an opinion on a letter on the draft joint declaration by Parliament, the Council, and the Commission on the establishment of a conciliation procedure.

The President of the European Parliament referred this letter to the Committee on Budgets as the committee responsible and to the Political Affairs Committee for its opinion.

The Committee on Budgets considered this letter at its meetings of 7 January, 13 January and 4 February 1975.

At its meeting of 4 February 1975 the committee unanimously adopted the motion for a resolution submitted by Mr SPENALE, rapporteur on matters connected with budgetary powers.

Present: Mr Pétre, acting chairman; Mr Spènale, rapporteur; Mr Boano, Mr Delmotte (deputizing for Mr Gerlach), Mr Lagorce, Mr Lautenschlager, Lord Lothian, Mr de la Malène, Mr Nyborg (deputizing for Mr Terrenoire), Mr Radoux, Mr Schmidt, Mr Shaw and Mr Vernaschi.

The opinion of the Political Affairs Committee will be given orally at the plenary sitting.

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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 letter from the Council of the European Communities on the draft joint declaration by Parliament, the Council and the Commission on the establishment of a conciliation procedure

The European Parliament,

- having regard to its resolution of 5 October 1973<sup>1</sup>,
- having regard to the proposal from the Commission on the strengthening of Parliament's budgetary powers (Doc. COM (73) 1000 final),
- having regard to the joint guidelines established by the Council on the strengthening of the budgetary powers of the European Parliament (Doc. 135/74) and the considerations which guided the Council in the establishment of these guidelines (Doc. 213/74),
- having regard to the outcome of the meetings between its delegation and the Council on 25 June and 14 October 1974,
- having regard to the draft joint declaration on the conciliation procedure and to the letter from the Council of 19 December 1974 (Doc. 431/74).
- having regard to the letter from its President to the President of the Council of 16 January 1975 (PE 39.610),
- having regard to the report of the Committee on Budgets and having heard the opinion of the Political Affairs Committee (Doc. 483/74),

Initiation of the conciliation procedure

1. Welcomes the willingness to confer and cooperate shown by the three institutions concerned, which has resulted in a definite reconciliation of their original positions;
2. Appreciates the Council's agreement to the introduction of a conciliation procedure before the present revision of the Treaties is completed;
3. Points out nevertheless that the strengthening of Parliament's budgetary powers, which was acknowledged to be essential even before the implementation of the own-resources system, has been regrettably delayed since 1 January 1975 and that the formalities for improving the budgetary procedures must be initiated;

<sup>1</sup> OJ No. C 87, 17 October 1973, p.6

Procedural machinery

4. Welcomes the overall plan proposed by the Council, which seems likely to allow Parliament to play a genuine part in the procedure governing Community expenditure;
5. Feels, however, that the conciliation procedure should involve Parliament in the procedure for preparing and adopting important Community decisions which give rise to Community expenditure or revenue;
6. Is also of the opinion that the value of this procedure will in practice largely depend on its interpretation by the institutions directly concerned particularly in the light of the explanatory statement attached hereto;

End of the procedure

7. Considers that the degree of influence that it will be able to exercise over the Council's decision at the end of the procedure is accurately reflected by the different types of majority required in the Council depending on whether it acts in accordance with or contrary to Parliament's opinion;
8. Notes that pursuant to Article 149 of the EEC Treaty unanimity is required for amendments to any 'proposal' from the Commission;
9. Feels, therefore, that it should not be possible for the Council to depart from the resolution adopted by Parliament at the end of the conciliation procedure unless its members decide to do so unanimously, and in this respect expresses categorically its reservations on the draft submitted by the Council;

Provisional introduction of the procedure

10. Points out, however, that it is in the interests of the Communities for better cooperation to be established as soon as possible between the Council and Parliament and therefore for a procedure for active parliamentary participation in all major decisions, particularly when they have appreciable financial implications, to be introduced;
11. Recognizes in this connection the quality of conciliation between Parliament's delegation and the Council in 1974 both as regards the adoption of the 1975 budget and the strengthening of Parliament's budgetary powers;
12. Therefore considers it advisable to see in what spirit the institutions concerned apply this theoretically inadequate procedure and assess what goodwill they show;

13. Approves, therefore, the initiation, on a provisional and experimental basis, of the conciliation procedure proposed by the Council, due account being taken of the remarks contained in this resolution and particularly paragraph 5;
14. States, however, that the provisional introduction of this procedure will be pointless unless the following conditions, which Parliament has already put forward on several occasions, are at the same time fulfilled by the Council:
- application of Article 149 of the EEC Treaty, which implies in particular that if the Commission alters its original proposal to take account of Parliament's opinion, the Council must expressly state its position within time-limits to be agreed;
  - communication to Parliament of the majority by which the Council has acted;
  - uniform interpretation by the three Institutions of Article 2 of the draft joint declaration to avoid any disputes;
15. Instructs its President to forward this resolution and the report of its committee to the Council and Commission of the European Communities.

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The first indent of paragraph 14 of the motion for a resolution should read as follows:

- '- application of article 149 of the EEC Treaty, which implies in particular that if the Commission alters its original proposal to take account of Parliament's opinion the Council must - expressly and within time-limits to be agreed - state its position on the text as altered and cannot adopt any act constituting an amendment to this text unless it does so unanimously;'

17.7.75

PE 39.488/Corr

EXPLANATORY STATEMENT

1. The draft joint declaration by Parliament, the Council and the Commission on the establishment of a conciliation procedure for acts with appreciable financial implications is the partial and provisional outcome of a long period of work in the three institutions concerned and of discussions between them on the subject of increasing the European Parliament's budgetary powers.<sup>1</sup>
2. In this respect, Parliament, following serious initial disappointment, fully appreciates the spirit of cooperation shown by the Commission and the form and substance of the dialogue that it was able to conduct with the Council in 1974.
3. The outcome is, however, partial in that it concerns only one aspect of the increase in Parliament's budgetary powers: its participation in the process of preparing important decisions giving rise to expenditure charged to the budget of the Communities.<sup>2</sup> At Parliament's request the conciliation procedure was dealt with separately from the other questions concerning the budgetary procedure and the Court of Auditors and which will require revision of the Treaties and so take considerable time before drafting and adoption are completed. It will thus be possible to introduce at least some of the provisions permitting a strengthening of Parliament's budgetary powers during 1975, the first year of the Community's own-resources system.
4. The outcome of the abovementioned work and discussions is, moreover, only provisional in the opinion of the Committee on Budgets, which, as is explained below, has a fundamental reservation about a crucial aspect of the Council's draft. Given this reservation, the committee recommends Parliament not to agree to the application of the conciliation procedure except as a transitional and experimental measure.

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<sup>1</sup>The work and discussions finished on the very day after the signature of the Treaty of 22 April 1970. Annex I to this report outlines events since July 1972.

<sup>2</sup> See the reservations expressed in paragraph 20 below.



I. THE OBJECT OF THE CONCILIATION PROCEDURE : PARLIAMENT'S APPROVAL OF EXPENDITURE

A. Legal justification of the principle

5. The justification and legal standing of the institution of a conciliation procedure for acts with appreciable financial implications are the same as those underlying the need for the overall strengthening of the European Parliament's budgetary powers. However, this conciliation has special characteristics, which should be emphasized.
  6. 'In all parliamentary democracies, Parliament alone can approve new expenditure, even when the constitution restricts the right to propose such expenditure to the Executive.'<sup>1</sup> Under the original Community system, however, the Council, an executive body, has alone and undividedly the right of deciding on activities or common policies and, therefore, on the resulting expenditure charged to the budget of the Community.
  7. The Treaty of 22 April 1970, while making some adjustments to the budgetary procedure, basically did nothing to change this paradoxical situation. The second 'resolution' annexed to the Treaty did, however, bring about at least a formal improvement in the system by providing:
    1. that the Commission should append to its proposals estimates of their financial implications so as to enable Parliament to give its opinion with full knowledge of the facts;
    2. that the Council should undertake to maintain the closest cooperation with Parliament in the examination of such acts and to explain to it such reasons as may have led it to depart from Parliament's opinion.
- This 'resolution' even became the subject of a detailed application agreement concluded in November 1972 between Parliament and the Council.
8. The absence of parliamentary responsibility for approving Community expenditure was to some extent offset up until 1 January 1975 by the existence of democratic control at the level of the national parliaments on the creation of Community resources. Until the establishment of the own-resources system the parliaments of the Member States approved, in the form of national contributions, the whole and subsequently a decreasing part of the appropriations required for the pursuance of Community activities.

<sup>1</sup> Paragraph 10 of the European Parliament's resolution of 5 October 1973.

9. As this indirect and partial form of democratic control ceased at the end of the 1974 financial year, it has now become essential that the European Parliament should be given a real say in decisions giving rise to Community expenditure or risk a reduction in parliamentary democracy in the Community and the Member States as a whole. The machinery of this joint decision-making power can be partly provided within the framework of the conciliation procedure now under consideration.

B. Advantages of the application of the principle

10. As regards the responsibilities which Parliament must also have in connection with the budgetary procedure and which will shortly lead to a revision of the Treaties, the proposed procedure will have certain advantages that should be stressed. It will allow Parliament to be involved in the taking of decisions of principle likely to give rise to expenditure subject only to a posteriori reflection in the annual budget. Parliament will thus be able to devote to these decisions and to their financial implications far greater attention and more specific debates than at the time of the vote on the budget, when many and extremely varied items of expenditure are grouped together. Above all, however, if the procedure is applied in a manner satisfactory to both parties, the budgetary debate will cease to be the only occasion on which Parliament can call in question, possibly with a threat as formidable as the outright rejection of the budget, the principle or extent of certain Community activities.

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II. GOAL AND MACHINERY OF THE CONCILIATION PROCEDURE

11. The goal of this procedure is therefore the participation of Parliament in the taking of important decisions which give rise to expenditure charged to the budget of the Communities. More accurately, it represents the framework within which Parliament and the Council will be able, with the Commission's assistance, to attempt to attenuate or even to settle any disagreement between them on a proposal from the Commission.

12. The machinery underlying this procedure is relatively simple. The procedure may only be followed for Community acts of 'general application' which have 'appreciable financial implications'; moreover, the acts concerned must be non-compulsory, i.e. acts whose 'adoption is not required by virtue of acts already in existence'. When an act of this kind is the subject of a proposal from the Commission, the proposal is submitted to the Council, which forwards it to Parliament for its opinion by the normal procedure before considering it. The procedure is initiated only if the Council intends to depart from the opinion delivered by the European Parliament.

13. The conciliation is to take place in a 'Conciliation Committee' consisting of the members of the Council and a delegation from Parliament. The Commission will 'participate in the work' of the Conciliation Committee. Having determined the nature and extent of the differences in their positions, the Council and Parliament must then attempt to reach a compromise or, at the very least, to approximate their positions as far as possible. As the originator of the initial proposal, the Commission will keep the parties informed of the details and objectives of its proposal and possibly suggest ways of removing differences of opinion between the Council and Parliament.

14. If agreement is reached by the two institutions or if they consider their positions sufficiently close, the role of the Conciliation Committee is completed. The work of the committee can also be brought to a close, possibly before a compromise has even been outlined, at the end of the period that the Council is able to fix in cases of need or urgency.

15. At the end of the procedure Parliament is usually informed of the outcome of the Conciliation Committee's work and can therefore give a new opinion on the Commission's proposal in the light of this information. The new opinion is then forwarded to the Council, which takes definitive action.

### III. EVALUATION OF THE COUNCIL'S DRAFT

16. Parliament, it is felt, can give a favourable opinion on the whole of the machinery provided for in the Council's draft as described above. The two annexes to this report show, moreover, that on certain delicate issues the dialogue entered into between the three institutions - and more particularly between Parliament and the Council - has produced a text whose wording is acceptable to the two institutions directly concerned. On other points there continue to be some differences of view which it should be possible to smooth out in the course of the final discussions on the matter between the Council and Parliament.

17. However, as stated above, the Committee on Budgets still has basic reservations about one crucial aspect of the Council's draft: the type of majority required in the Council with respect to Parliament's opinion for it to take definitive action on the act forming the subject of the conciliation procedure.

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#### A. Details and interpretation

18. The minor differences mentioned above concern in particular the third recital of the Council's draft.

19. This first refers to the participation by Parliament in the procedure for 'preparing' certain decisions. It would seem, however, that a genuine conciliation procedure should aim at involving Parliament in the actual adoption of texts and not simply in the procedures for preparing them. Parliament, a political institution, cannot agree to play the role of a technical body responsible for giving its opinion on the wording of a draft text.
20. The third recital then refers to important Community decisions which give rise to 'expenditure' charged to the budget of the Communities. Yet the conciliation procedure should also be applied to decisions which give rise to revenue received by the Communities. Certain Community acts are in fact capable of producing a considerable increase in Community revenue, and it would seem logical for Parliament to be involved in the adoption of such acts for the same reasons as it participates in the adoption of acts giving rise to expenditure.
21. Finally, this recital refers only to expenditure charged to the 'budget' of the Communities. However, an appreciable part of Community expenditure does not at present figure in the annual budget: this is particularly the case with appropriations for the European Development Fund. As Parliament is just as much concerned with non-compulsory expenditure as with other types of expenditure, the reference to the 'budget' of the Communities should be deleted.
22. The seven paragraphs of the Council's draft,<sup>1</sup> which are explained in the commentary contained in the Council's letter of 19 December 1974, do not appear to call for more than brief statements of interpretation from Parliament:
- Paragraph 2: The criteria for deciding whether acts are eligible for the conciliation procedure are defined in fairly general terms. It is felt that only experience in practice will reveal any differences of opinion between the institutions in this respect;
  - Paragraph 3: This paragraph states that, like the Council, Parliament may request initiation of the procedure. The Commission's opinion has an informative character only;
  - Paragraph 4: The procedure may be initiated only if the act concerned meets the criteria laid down in paragraph 2. There is some ambiguity here as to how it can be decided that the criteria have been met: the

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<sup>1</sup> Subject, of course, to the reservations about the last part of paragraph 7, on which comments are made separately below.

views of Parliament and the Council may differ on this matter, especially as paragraph 2 gives only a fairly vague definition of the criteria. It would therefore seem reasonable to provide that, where either institution decides the criteria have been met, this shall be sufficient to set the procedure in motion;

- Paragraph 5: The 'Conciliation Committee' must be regarded as a joint body meeting to discuss and negotiate on as informal a basis as possible. It is therefore essential that every member of the Council should be able to participate actively and directly in the discussion between the members of the committee;
- Paragraph 6: It is not in the interests of either party to prolong unduly the work of the committee, and the period of three months suggested as a guide would seem reasonable. However, it should also be remembered that conciliation will only be possible if the members of the committee are allowed a certain amount of time at least to reflect and discuss; for this reason, the Council should fix periods of less than three months only in exceptional cases for which there is proper justification;
- Paragraph 7: It is normal that the procedure should be completed as soon as 'the positions of the two institutions are sufficiently close'. However, in the absence of an arbitration body, whether or not the positions are sufficiently close must be left to the two institutions to decide; only if they agree on this point should it be possible to regard the procedure as closed, unless a time-limit has been fixed pursuant to paragraph 6.

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#### B. Basic reservation

23. The basic reservation mentioned above, on which it is felt Parliament cannot compromise, concerns the type of majority required in the Council for it to 'take definitive action' when disagreeing with Parliament's opinion as delivered at the end of the procedure.
24. In its resolution of October 1973 (paragraph 13 (d)) Parliament considered that its opinion 'can only be modified by the Council acting unanimously'. Parliament felt that the extent to which it could influence the Council's decision through the procedure under consideration was accurately reflected by the different types of majority required of the Council according to whether it acted in conformity with or contrary to Parliament's opinion.
25. Article 149 of the EEC Treaty already requires unanimity in the Council for any act constituting an amendment to a proposal from the Commission. It

would be paradoxical if Parliament did not have - at least as regards acts which have appreciable financial implications - a similar prerogative, especially as, unlike the Commission, it has 'budgetary authority'.

26. It should also be pointed out that this unanimity requirement is not in contradiction with the opinion, wholly shared by Parliament and recently expressed in paragraph 6 of the communiqué of the Conference of the Heads of State or Government of the Member States held on 9 and 10 December 1974, that the Council should 'renounce the practice which consists of making agreement on all questions conditional on the unanimous consent of the Member States'. In fact, the unanimity requirement can only be condemned to the extent that it is constantly used as the sole means of resolving differences of opinion within the Council; if, on the other hand, the Council has to define its position on important questions in relation - and in opposition - to that of another institution, it would then seem legitimate to require of the Council that it apply the most restrictive majority voting conditions; that is why unanimity is required by Article 149 of the EEC Treaty whenever the Council intends to amend a proposal from the Commission put forward by virtue of that Treaty.

27. In the abovementioned letter of 19 December 1974 the Council, without stating its views on the basic difference of opinion, feels that Parliament's position would necessitate an 'amendment to the voting procedure within the Council', which involves a revision of the Treaties, which the Council does not consider appropriate at present'. Without wishing to become involved in a legal debate, it can be said that this statement - particularly when the practice hitherto adopted by the Council itself is borne in mind - is extremely disputable.

### C. Conclusions

28. In view of the various arguments advanced above, Parliament cannot waive these reservations and intends to maintain them in the future.

29. The Committee on Budgets nevertheless feels that, in the interests of democratizing Community procedure, it would be desirable for this means of strengthening Parliament's budgetary powers to be initiated at the beginning of 1975. The committee was also favourably impressed by the quality of the conciliation between Parliament and the Council in 1974 on questions connected with the adoption of the 1975 budget and with the strengthening of Parliament's budgetary powers.

30. For these reasons the Committee on Budgets feels it desirable to initiate the conciliation procedure proposed by the Council as soon as possible on a provisional and experimental basis. It also considers that it would be useful to see how the institutions concerned apply the procedure and what goodwill they show.

31. The Committee on Budgets feels, however, that the provisional initiation of this procedure presupposes that the arguments advanced in paragraphs 18 to 22 of this report be taken into consideration and that the following two conditions be met:

- application of Article 149 of the EEC Treaty, which implies in particular that, where the Commission alters its original proposal to take account of Parliament's opinion, the Council must act on the modified text and unanimity in the Council is required for an act constituting an amendment to that text;

- communication to Parliament of the majority by which the Council has acted at the end of the conciliation procedure.

32. Finally, the Committee on Budgets agreed with the rapporteur of the Political Affairs Committee that the above conciliation procedure could be usefully applied to Community decisions of major importance, even those without any appreciable financial implications.

The latest Summit Conference<sup>1</sup> confirmed the principle of allocating legislative powers to Parliament and there seems no objection, therefore, to the initiation, within the framework of the conciliation procedure on acts with appreciable financial implications, of an experiment, even a limited one, in parliamentary participation in the exercise of Community legislative power.

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<sup>1</sup> Last sub-paragraph of paragraph 12 of the final communiqué: 'The competence of the European Assembly will be extended, in particular by granting it certain powers in the Communities' legislative process'.





ANNEX I

SUMMARY OF WORK DONE BY PARLIAMENT  
AND OF THE INTER-INSTITUTIONAL DIALOGUE ON  
THE CONCILIATION PROCEDURE

5 July 1972    Resolution of the European Parliament (OJ C 82, p.30)

Parliament recalled that, at the time of the signature of the Treaty of 22 April 1970 on the amendment of certain budgetary provisions of the Treaties of Rome and Paris,

- the Commission undertook to submit by 1972 at the latest proposals relating to the widening of Parliament's budgetary powers

- the Council undertook to consider these proposals.

Parliament therefore invited the Commission to submit these proposals without delay.

16 November 1972    Motion of censure (Doc. 204/72)

In this motion, tabled by Mr Spénale, Parliament:

- 'notes that, despite several calls to finally submit the necessary measures, the Commission has made no proposal whatsoever and has even refused to undertake to submit such proposals before the termination of its mandate,

- deplores the fact that this lack of action is effectively blocking the procedure to revise the budgetary powers of the European Parliament,

- maintains that this blocking manoeuvre is the result of the non-respect for a political commitment entered into by the Commission of the Communities...'

12 December 1972    Withdrawal of the motion of censure and adoption of a resolution (Doc. 251/72)

Mr Spénale agreed to withdraw his motion of censure in view of the commitments made by the Commission.

These are noted in the resolution adopted the same day by Parliament in which the latter:

'4. notes the commitment of the present Commission to request the enlarged Commission to honour, as a matter of priority and as soon as possible, the commitments made in April 1970, so that the new budgetary powers of the Parliament can enter into force prior to the drafting of the 1975 budget, the first to be financed entirely by own resources;'

19 April 1973 Communication from the Commission on the progress achieved in the first stage of economic and monetary union ... (Doc. 68/73) p. 30, first paragraph

In a chapter entitled 'Strengthening of the role of the European Parliament', the Commission recalled that it was committed to submit by 30 June 1973 proposals relating to the strengthening of Parliament's budgetary powers.

The Commission went on to write that 'as concerns important instruments of general application, there could and should be introduced, by agreement among the Institutions, a procedure for a second reading before the Parliament whenever the Council departs markedly from the Opinion delivered at the first reading'.

12 June 1973 Communication from the Commission to the Council on the strengthening of the budgetary powers of the European Parliament (COM (73) 1000 - Doc. 124/73) p. 4, second and third paras.

The first part of this document briefly reconsiders the question of the 'second reading' procedure. This does not form the subject of a specific proposal but nevertheless states that

'... The latter procedure should therefore be applied in the case of all decisions of principle having considerable financial effects over a period covered by several budgets ...

Without any modification of the general pattern of European construction, Parliament would thus be sure of being associated with the preparation of decisions determining the major annual budget items and, above all, those reflecting Community policies ...'

5 July 1973 Resolution of Parliament on the Communication from the Commission of 12 June 1973 (OJ C 62)

In this resolution - provisional in nature - Parliament expressed its regret at the inadequacy of the Commission's proposals and invited it, on the basis of this resolution, to give these problems further consideration. Paras. 10 - 12 directly concern the 'second reading' procedure:

- '10. considers that where major rule-making decisions with significant budgetary implications are concerned, the second reading procedure proposed by the Commission is inadequate;
11. believes that the European Parliament should have the final say as regards financial implications of any new measures;
12. proposes the establishment of a joint working party (...) to examine in detail together with the Commission the Commission's proposals (...);'

12 July, 30-31 July, 19 September 1973

Meetings of the working party referred to in para. 12 of the resolution of 5 July 1973.

5 October 1973 Resolution embodying the opinion of the European Parliament on the Communication from the Commission of 12 June 1973 (OJ C 87) p. 11

In this resolution Parliament

'25. reaffirms that it cannot, under the own resources system, endorse any proposal which does not confer real budgetary power on the representatives of the people of the Member States of the Community;

26. requests therefore

- (a) that the Commission should review its proposals in the light of this Resolution;
- (b) that the Council should not take any decisions without first consulting Parliament;

As regards the adoption of acts involving expenditure, Parliament (paras. 10-13) proposes the establishment of a genuine conciliation procedure which would allow the Council the last word but would oblige it to act unanimously if its decision went against the opinion expressed by Parliament (the text of this resolution appears in Annex II, column I).

15 October 1973 Amended proposals of the Commission to the Council on the strengthening of the budgetary powers of the European Parliament (COM(73) 1000 final) p. 3-4

As a result of the resolution of Parliament of 5 October 1973, the Commission modified some of its proposals of 12 June 1973.

As regards acts having financial implications, the Commission provided that:

'a compulsory conciliation procedure should apply to the adoption of Community acts of general application which have considerable financial implications and which are not adopted pursuant to existing acts (...).'

It added

'such a procedure could be implemented by means of a joint resolution of the three institutions concerned without the necessity for changes in the general framework of the building of Europe or for the text of the Treaties to be formally amended in an area where passions are likely to be aroused in the Member States.'

The fifth part of this document consists of a detailed draft (in seven paras.) of a joint declaration of the European Parliament, the Council and the Commission (the text of which is reprinted in Annex II, column II).

14 January 1974 Decision of the Bureau of the European Parliament concerning the delegation assigned to make contact with the Council as laid down by para. 26 of the resolution of 5 October 1973 (PE 35.644 Bur/Extr.)

7 June 1974 Joint guidelines of the Council on the strengthening of Parliament's budgetary powers (Doc. 135/74)

This document informs Parliament of the joint guidelines established by the Council at its meeting of 4 June 1974.

As regards the conciliation procedure, the Council took as its text - adding certain amendments restricting the scope of certain points - the draft declaration proposed by the Commission on 15 October 1973. It asked Parliament to let it know whether it could agree to this draft (the text is reprinted in Annex II, column III).

25 June 1974 First meeting between the Council and a delegation of Parliament

As regards the conciliation procedure, the Parliamentary delegation expressed several reservations on the contents of the Council draft and requested in particular

- that all members of the Council should actually play a part in the conciliation
- that Parliament should be able to initiate the procedure itself - and judge, when the procedure is completed, whether the positions of the two institutions are sufficiently close
- that the majority required by the Council should differ according to whether it agrees with Parliament or opposes the latter's opinion.

23 July 1974 Considerations of the Council (Doc. 213/74) p. 5

The Council informed Parliament in this document of the considerations which influenced it in establishing the guidelines on the strengthening of the budgetary powers of the Parliament (communicated to Parliament on 7 June 1974); the Council also replied to the points raised by the Delegation from the Parliament during its meeting of 25 June 1974.

- As regards the conciliation procedure, the Council noted in particular:
- that it intended to confine itself to establishing that the conditions for initiating the procedure had been met
  - that Council members would take part in meetings of the conciliation committee
  - that it was for each institution to ascertain when, in its opinion, their positions were sufficiently close
  - that to require the Council to pronounce unanimously when opposed to Parliament's opinion would lead to a radical change in the balance between Institutions and the Council's voting and working methods. The Council considered such a change to be impossible.
  - that the conciliation procedure should be put to the test of experience and that it should be seen what lessons would be learned from it.

20 September 1974 Letter from the President of Parliament to the President-in-Office of the Council (PE 38.151)

On behalf of the Delegation, the President of Parliament noted the generally negative nature of the Council's position as expressed in its consideration of 23 July 1974.

This letter was accompanied by a note from the Delegation (PE 38.000 final) summarizing Parliament's views, particularly on the conciliation procedure, and regretting that the Council had not been able to agree to setting up this procedure by a simple inter-institutional agreement. (The main points of this note are summarized in Annex II, Column IV).

14 October 1974 Second meeting between the Council and a delegation from the Parliament

As regards the conciliation procedure, the positions of the two institutions moved significantly closer except on the question of the conditions of majority needed by the Council to disregard Parliament's opinion; these differences applied also to the length and the method for completing the procedure.

In a letter of 22 October the President of Parliament asked the Council to take account of the positions being upheld by the delegation when it adopted its final proposals on the strengthening of the budgetary powers of Parliament (PE 38.554).

19 December 1974 Draft joint declaration on the conciliation procedure (Doc. 431/74)

This draft was adopted by the Council on 2 December 1974. It was accompanied by a letter in which the President-in-Office of the Council said that he felt that the conciliation procedure should be characterized by a very open-minded approach so that a real dialogue could take place between the Institutions called upon to take part. This letter also spelt out, for each of the phases of the procedure, the approach which the Council intended to adopt. In it, the Council finally declared its agreement to initiating the procedure by simple agreement between the Institutions without awaiting amendment of the Treaties. (The text of the draft joint declaration appears in Annex II, Column V).

16 January 1975 Letter from the President of Parliament to the President-in-Office of the Council

This letter - accompanied by two annexes - informed the Council of the position adopted by the Committee on Budgets on the draft joint declaration of 19 December 1974.

Although not able to compromise on the question of the size of the Council's majority when taking a definitive vote, the Committee on Budgets nevertheless felt that the conciliation procedure could be initiated on a provisional and experimental basis subject to certain conditions and details contained in the President's letter and its annexes.

The President of Parliament requested the President of the Council to state his position on this proposal. (The main points of this letter are summarized in Annex II, Column VI).

ANNEX II

C O M P A R A T I V E T A B L E

of the proposals and opinions of Parliament, the Council  
and the Commission

on the draft joint declaration setting up a

CONCILIATION PROCEDURE

The comparative table is based on the following documents:

- Column I - the opinion of the European Parliament, delivered on 3 October 1973<sup>1</sup>
- Column II - the final proposal of the Commission, submitted on 10 October 1973<sup>2</sup>
- Column III - the joint guidelines submitted by the Council on 7 June 1974<sup>3</sup>
- Column IV - the note submitted on 16 September 1974 by the Delegation from Parliament to the Council<sup>4</sup>
- Column V - the Council's letter of 19 December 1974<sup>5</sup>
- Column VI - the letter from the President of the European Parliament to the Council, dated 16 January 1975, containing the views of the Committee on Budgets

<sup>1</sup> OJ C 87 of 17 October 1973

<sup>2</sup> COM (73) 1000 final

<sup>3</sup> Doc. 135/74

<sup>4</sup> PE 38.000/final

<sup>5</sup> Doc. 431/74

<sup>6</sup> PE 39.610



I. REASONS FOR ESTABLISHING A CONCILIATION PROCEDURE

Opinion of Parliament                      Commission Proposal<sup>1</sup>                      Council guidelines

Unchanged

10. Recalls that, in all parliament-ary democracies, Parliament alone can approve new expenditure, even when the constitution restricts the right to propose such expenditure to the Executive;

The European Parliament, the Council and the Commission,

1. Whereas from 1 January 1975 the budget of the Communities will be financed entirely from the Communities' own resources;

11. Considers therefore that the Commission's proposals on this matter, stipulating only a second consultation for any decision of principle with major financial implications extending over several years are:

2. Whereas to implement this system the Parliament will be given increased budgetary powers;

- restricted in scope;
- not sufficiently effective;

12. Notes, however, that the agreement of Parliament and the Council is highly desirable in this case, and should be sought wherever possible;

<sup>1</sup> Refers to the amended proposal of the Commission, the initial proposal assuming an informal character

REASONS FOR ESTABLISHING A CONCILIATION PROCEDURE

Parliament's delegation to  
the Council

Draft declaration as amended  
by the Council

The European Parliament, the Council and the Commission,

1. Whereas from 1 January 1975 the Budget of the Communities will be financed entirely from the Communities' own resources;<sup>2</sup>
2. Whereas to implement this system the Parliament will be given increased budgetary powers;<sup>2</sup>

Views of the Committee on Budgets

'The Committee on Budgets considers that the texts submitted to it show that the position of the two Institutions are now appreciably closer than before and recognizes that the understanding shown by the Council with regard to certain positions maintained by the European Parliament has contributed to this rap-prochement.

However, it noted that there remained an important difference of opinion between the two institutions on a crucial point, dealt with in paragraph 4 of your letter and paragraph 7 of the declaration - concerning the majority conditions which, depending on the opinion delivered by Parliament, should be fulfilled by the Council when taking its final decision on the act subject to the conciliation procedure. The Committee on Budgets considers that a compromise is not possible on this fundamental principle, since it affects the essential nature of Parliament's budgetary powers. It believes, however, that Parliament, whilst maintaining its initial position on this point as expressed in particular in its resolution of 5 October 1973, might perhaps allow the implementation, on a 'provisional' and experimental basis, of a procedure which did not yet satisfy its demands in this respect.

<sup>2</sup> Identical to the final Commission text (Col. 2)

3. Whereas the increase in these powers must be accompanied by an effective participation of the European Parliament in the procedure whereby important decisions which subsequently give rise to expenses charged to the budget of the Communities are worked out,

(unchanged)

Parliament's delegation to  
the Council

Draft declaration as amended  
by the Council

Views of the Committee on Budgets

It would in fact be expedient to introduce some form of conciliation as soon as possible, despite any shortcomings it might contain, so that on the basis of experience it would be possible to assess the spirit in which such a procedure could be applied and the goodwill shown by the Institutions concerned. The Committee on Budgets nevertheless considers that provisional implementation of the conciliation procedure would be futile unless the following conditions were also fulfilled:

- application of Article 149 of the EEC Treaty, which implies in particular that when the Commission has modified its initial proposals to take into account Parliament's opinion, the Council must take a decision on the text as modified and may pass an act amending the said text only by unanimous decision.
  - communication to Parliament of the majority by which the Council took its decision at the end of the conciliation procedure;
  - unless the Council's decision is unanimous, the Commission's text, in accordance with Parliament's opinion, shall be deemed to be accepted;
3. Whereas the increase in the budgetary powers of the European Parliament must be accompanied by an effective participation by the latter in the procedure for preparing and adopting important decisions which give rise to expenditure or revenue charged to or accruing to the Communities.
3. Whereas the increase in the budgetary powers of the European Parliament must be accompanied by an effective participation by the latter in the procedures for preparing important decisions which give rise to expenditure charged to the budget of the Communities,

Opinion of Parliament

Commission proposal

Council guidelines

Parliament's delegation to  
the Council

Draft declaration as amended  
by the Council

Views of the Committee on Budgets

(The Committee on Budgets justifies its amendment of the third paragraph of the preamble as follows:)

(a) This paragraph mentions decisions which 'give rise to expenditure charged to the budget of the Communities'. Parliament must be able to take part in decisions giving rise to Community expenditure, even if the expenditure does not appear in the budget, e.g. expenditure under the EDF.

(b) This paragraph only provides for decisions giving rise to expenditure charged to the Communities. It would be desirable for the procedure to be applicable also to the decisions affecting Community revenue. Parliament must be able to exercise its budgetary powers with regard to both revenue and expenditure.

(c) This paragraph aims to enable Parliament to participate in the procedure for preparing certain decisions. However, a genuine conciliation procedure must go beyond a mere consultation procedure. Parliament is not a technical body responsible for delivering an opinion on the wording of a draft text, but a political institution which, under the procedure in question, must participate in the adoption of the final decision.

II. THE CONCILIATION PROCEDURE

A. Initiating the procedure

Opinion of Parliament

13. Proposes therefore that
- (a) a coordination committee should be set up with equal representation of Parliament and the Council, to seek, in the presence of the Commission, an acceptable solution in the event of failure to reach an agreement;

Commission proposal

AGREE UPON THE FOLLOWING PROVISIONS:

1. A conciliation procedure between the European Parliament and the Council with the active assistance of the Commission shall be set up
2. The procedure may be applied in respect of the adoption of Community acts of general scope having financial implications of a substantial nature and whose adoption does not arise by reason of acts already in existence.
3. The Commission shall indicate at the time of making its proposal whether the act in question is, in its opinion, capable of being subject of the conciliation procedure. The Parliament may also request the opening of this procedure when it gives its opinion.

Council guidelines

- (Unchanged)
- (Unchanged)
- (Unchanged)

II. THE CONCILIATION PROCEDURE

A. Initiating the procedure

Parliament's delegation to the Council

Draft declaration as amended by the Council

Views of the Committee on Budgets

HAS AGREED AS FOLLOWS:

1. A conciliation procedure between the European Parliament and the Council with the active assistance of the Commission shall be instituted.
2. This procedure may be followed for Community acts of general application which have appreciable financial implications, and of which the adoption is not required by virtue of acts already in existence.
3. When submitting its proposal the Commission shall indicate whether the act in question is, in its opinion, capable of being the subject of the conciliation procedure. The European Parliament, when giving its opinion, and the Council may request that this procedure be initiated.

The delegation asked that Parliament and the Commission should have the power to decide the initiation of this procedure. The Council persists in reserving this exclusively to itself and emphasizes that its role is confined to establishing that the conditions required for the initiation have been met ...

In fact, it ought to be possible for each party to ask for the initiation of a joint procedure, especially those parties with less powers over the decisions to be taken at the outcome of the procedure.

(satisfaction obtained)



Opinion of Parliament

Commission proposal

Council guidelines

4. The procedure shall be opened if the Council intends to depart from the opinion adopted with a significant majority by the Parliament
4. The procedure shall be opened if the Council establishes that the criteria laid down in paragraph 2 are fulfilled and if it intends to depart from the opinion adopted with a significant majority by the Parliament.

B. Participation of the Council in the conciliation procedure

5. The conciliation shall take place in a 'Conciliation Committee' consisting of members of the Council and representatives of the Parliament. The Commission shall participate in the work of the Conciliation Committee.

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Parliament's delegation to the Council

... The Council proposes that the procedure be initiated only when it differs from the opinion adopted by a 'significant' majority of the Assembly ...

The delegation considers that it is incumbent on the Assembly alone to decide whether the majorities by which it delivers an opinion are 'significant'.

Draft declaration as amended by the Council

4. The procedure shall be initiated if the criteria laid down in paragraph 2 are met and if the Council intends to depart from the opinion adopted by the European Parliament.

(The Council commented on this wording as follows:

'The Council feels that the procedure should be initiated whenever the conditions required by the text of the draft joint declaration are fulfilled. It is therefore only a matter of establishing in each case whether these conditions have been fulfilled.

The European Parliament, the Commission or the Council may ask for the procedure to be initiated whenever the conditions are fulfilled. The Council considers that this is unlikely to give rise to differences of opinion between the institutions.

You will see that the text of the draft joint declaration no longer refers to the concept of a 'significant majority' which was mentioned in the common approach forwarded to you previously. The Council feels that it is for the European Parliament to decide by which procedure it adopts its opinions.'

(satisfaction obtained)

(satisfaction obtained)

B. Participation of the Council in the conciliation procedure

Parliament and the Commission desired conciliation between a delegation from the Assembly and the members of the Council.

In the Council's opinion, however, the aim of this procedure would be to establish a dialogue between the Council and the Assembly.

5. The conciliation shall take place in a 'Conciliation Committee' consisting of the Council and representatives of the European Parliament. The Commission shall participate in the work of the Conciliation Committee.

The Committee on Budgets took special note of the originality of the 'Conciliation Committee' provided for in paragraph 5 of the draft declaration. It considers that the joint nature of this body should be particularly well adapted to its work, e.g. by making possible a joint communiqué at the end of the procedure on which Parliament would deliver an opinion.

Views of the Committee on Budgets

Parliament's delegation to the Council

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Draft declaration as amended by the Council

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Opinion of Parliament

Commission proposal

Council Guidelines

6. The aim of the procedure shall be to cause agreement between the two institutions to be reached.

6. The aim of the procedure shall be to seek an agreement between the two institutions.

C. Completion of the conciliation

Parliament's delegation to  
the Council

The delegation must emphasise here that if the conciliation procedure is to bring the Institutions as such into confrontation, it could only normally take place in a plenary sitting of the Assembly. This is certainly not compatible with the very nature of the procedure. The Council considers that it is incumbent on the President-in-Office of the Council to express the joint position of these institutions.

What happens in all this to participation in the discussion of the other members of the Council?

A genuine discussion presupposes an open mind on the part of all participants; if one of the parties had to confine itself to a joint position taken in advance and expressed by its President, the conciliation procedure would be reduced for both the members of the Council and those of Parliament to simply putting in an appearance.

C. Completion of the Conciliation

A period of three months for the operation of the conciliation procedure is too inflexible, especially bearing in mind the intermittent functioning of the various institutions and their working methods. Parliament, while accepting that the procedure should not be stretched over too long a period, wishes the institutions to fix, at the initiation of the procedure and by mutual agreement, the period required for completing the procedure, due allowance being made for urgent matters.

Draft declaration as amended  
by the Council

('As has been seen from the procedure followed at recent meetings between a delegation from the Parliament and the Council, all members of the Council may take part in the discussion and thus help to set up a real dialogue between the two parties.')

6. (first para.) The aim of the procedure shall be to seek an agreement between the European Parliament and the Council.

Views of the Committee on Budgets

(satisfaction obtained)

6. (2nd para.) The procedure should normally take place during a period not exceeding three months, unless the act in question has to be adopted before a specific date or if the matter is urgent, in which case the Council may fix an appropriate time-limit.

(some satisfaction obtained)

Opinion of Parliament

Commission proposal

Council guidelines

7. Should the Conciliation Committee consider that the positions of the two institutions are sufficiently close to enable agreement to be reached, the proposal shall be submitted to the European Parliament for a second examination and then to the Council.

7. When their positions have been sufficiently reconciled, or at the latest three months after the opening of the procedure, the Parliament may give a fresh opinion. The Council shall then act finally. Where the act in question must be adopted before a specific date, or if the urgency of the matter so requires, the Council may fix a shorter time-limit.

Parliament's delegation to  
the Council

Parliament asked that the Assembly should be permitted to decide the point at which the positions of the two institutions were sufficiently close. The Council replied 'that it was for each institution to ascertain when, in its opinion, their positions were sufficiently close.' Contrary to appearances, this declaration is in fact unacceptable. It is the Council which, at the end of the procedure, adopts the decision; if it also had the right to decide - without the agreement of the Assembly - when the positions were sufficiently close, the conciliation procedure would be mutilated and unequal. It is important for the institution that does not have the last word to be able to say at which stage of the conciliation the positions are sufficiently close to each other; otherwise the procedure might be terminated while, in Parliament's view, there was still a significant difference of opinion.

Draft declaration as amended  
by the Council

..... ('except for cases where an act must be adopted urgently or before a specific date, the Council considers that the abovementioned period of three months is to be taken mainly as a guide.')

7. When the positions of the two institutions are sufficiently close, the European Parliament may give the new opinion, after which the Council shall take definitive action.

('Since both the Parliament and the Council will each have already examined the Commission proposals submitted for conciliation, discussions between the Council and the delegation from the Parliament could therefore be limited to the political aspect of the major differences of opinion still to be reconciled...')

Views of the Committee on Budgets

(some satisfaction obtained)

D. Procedure to be followed after completion of the conciliation procedure

Opinion of Parliament

(b) the solution proposed by the coordination committee would enter into force after ratification (within a maximum period of 30 days from the date of its adoption by the coordination committee) by the Council by qualified majority and by the Parliament by majority of its members and a simple majority of the votes cast;

(c) in the event of the solution proposed by the coordination committee being rejected by the Council and/or the Parliament, the matter in dispute would - after an exchange of views between the Council and Parliament in the form of a debate in plenary session - be referred again to the coordination committee;

(d) in the event of no agreement being reached at the second attempt, Parliament's opinion, established by a majority of half its members plus one and two-thirds of the votes cast, can only be modified by the Council acting unanimously. Unanimity cannot be achieved if even a single member of the Council abstains. The Council must meet in public on these occasions.

Commission proposal

Council guidelines

D. Procedure to be followed after completion of the conciliation procedure

Parliament's delegation to the Council

The Council rejected the Assembly's suggestions. Parliament's proposals are certainly open to discussion, but to reject them in their entirety on the sole pretext that they would involve 'radical changes in the balance between the institutions and the Council's voting and working methods' is unacceptable.

In this respect the delegation must emphasise that:

- (a) the problem of budgetary powers involves inter-institutional relations and not the inter-institutional machinery of one or other of the institutions;
- (b) Parliament's proposals do not entail 'radical changes' since, notwithstanding the own resources system, they still give the Council the last word;
- (c) Parliament's proposals would not upset voting procedures within the Council.

Article 149 of the Treaty provides that when the Council acts on a proposal from the Commission, unanimity shall be required for an act constituting an amendment to that proposal. Parliament's proposal is merely a transposition of these regulations into the context of fundamental budgetary decisions.

Draft declaration as amended by the Council

('The Council feels that at present it is not possible to follow the suggestions put forward by the Parliament with regard to the procedures whereby it should take final decisions. In fact, any amendment to the voting procedure within the Council involves a revision of the Treaties, which the Council does not consider appropriate at present.')

Views of the Committee on Budgets

Since its resolution of 5 October 1973, a constant and fundamental demand of the European Parliament has been the need for a unanimous vote in Council for the latter to be able to take a decision opposing Parliament's opinion.

It is difficult for Parliament to give up its demand since this condition regarding the vote reflects the precise measure of the influence Parliament will have been able to exert on the Council decision through the conciliation procedure.

Article 149 of the Treaty in fact obliges the Council to act unanimously for an amendment to any Commission proposal. It would be paradoxical - as regards acts with appreciable financial implications - for Parliament not to be allowed a similar prerogative when all the institutions agree on the need to strengthen its budgetary powers.

It should also be stressed that this demand for unanimity not inconsistent with the view - fully shared by Parliament and recently reiterated in paragraph 6 of the declaration of the Conference of Heads of Government of the Member States of 9 and 10 December, 1974 - according to which the Council should 'renounce the practice which consists of making agreement on all questions conditional on the unanimous consent of the Member States'. The unanimity rule is in fact reprehensible only insofar as it is constantly used as the only means of resolving internal disagreement in the Council. Where the matter is one of the Council defining its opposition to the standpoint adopted by another institution, it seems



Opinion of Parliament

Commission proposal

Council guidelines

Parliament's delegation to  
the Council

It should further be noted that regulations with considerable and recurring financial consequences have in general to be adopted on a proposal by the Commission, which means that the Council cannot deviate from it unless it acts in unanimity. It follows that the Commission, by its power of proposal, has a greater budgetary influence than Parliament insofar as the Council may deviate from the opinion of the latter without need for unanimity of its members.

Draft declaration as amended  
by the Council

Views of the Committee on Budgets

quite legitimate that the Council should be subjected to more stringent quorum requirements and it is for this reason that Article 149 of the EEC Treaty already demands unanimity where the Council wishes to amend a proposal from the Commission submitted under this Treaty.

It is therefore felt that at this stage - without there being any need to revise the Treaties - the Council could undertake not to depart from positions adopted by Parliament on acts having appreciable financial implications unless it acts unanimously.

E. Date of entry into force of the conciliation procedure

Opinion of Parliament

Commission proposal

Council guideline

E. Date of entry into force of the conciliation procedure

Parliament's delegation to  
the Council

Draft declaration as amended  
by the Council

('The Council, like you, attaches the greatest importance to rapid entry into force of the conciliation procedure. This is why it agrees with your suggestion that the procedure should be instituted as soon as the institutions concerned have agreed on all the texts, without waiting for the entry into force of the Treaty which, as you know, has to be ratified by all the Member States in accordance with their respective constitutional rules.')

Views of the Committee on Budgets

Parliament greatly appreciates the fact that the Council has agreed to the initiation of the conciliation procedure before the completion of the revision of the Treaties required to strengthen Parliament's budgetary powers.

(satisfaction obtained)