

EDITORIAL COMMENTS

The Powers of the European Parliament

For the first time since agreement was reached on the Treaty of April 22, 1970, amending certain budgetary provisions of the Community Treaties, the Council has acted upon the proposals of the Commission relating to a reinforcement of the Parliament's budgetary powers. On June 4, 1974, a delicate compromise was reached on a number of principles which the Commission had presented in the form of a second Treaty amending certain budgetary provisions of the Community Treaties. The decisions of June 4 are merely termed "common guidelines." This indicates that the Council has steered clear of committing itself to propose formal treaty amendments under Article 236 of the EEC Treaty. This is not surprising since the British delegation has made it very clear that there will be no question of submitting a treaty amendment to the United Kingdom Parliament for ratification before "renegotiations" of the conditions of United Kingdom membership of the Communities have come to a successful conclusion.

The Commission and the European Parliament have not always seen eye to eye with regard to the substance of the Commission's proposals. Nor, for that matter, with regard to the Commission's diligence in putting their proposals before the Council. It is true that the motion of censure tabled by Mr. Spénale in November 1972 was withdrawn when the Commission was able to convince the European Parliament that it would be unreasonable to press the Council for far-reaching institutional amendments before the enlargement of the Community had been carried out. However, it was implied by Mr. Spénale that his motion could again be tabled if the Commission showed no muscle in making its proposals to the Council. The Parliament insisted in particular that it be invented with a genuine right of co-decision along the lines suggested in the report of the Vedel Committee. The Commission was reluctant to upset the institutional equilibrium of the Treaties at this time. It rather showed itself inclined to settle for less ambitious practical measures to improve co-operation between the Council and the European Parliament and to strengthen the role of the Parliament in the decision-making process.

The Council now has given its consent to a concertation procedure which will be put in motion whenever it is necessary to iron out differences of opinion between the Council and the Parliament on certain proposed Community acts with important financial implications. Concertation will take place within a concertation committee made up of representatives of the Council and the political groups of the Parliament, with the participation of the Commission. When this committee considers that the positions of the two institutions are close enough to make agreement probable, the proposal will be submitted to the EP for a second reading.

The right to make the final decision continues to belong to the Council, however. Even if the treaty is not formally amended to take account of this new procedural device, it is important to note that the Council has committed itself to engage in a real dialogue with the Parliament in respect of important pieces of Community legislation.

Where the "common guidelines" fall short of giving the Parliament a right of co-decision on important Community acts—which fact has been widely advertised—it would seem that the extension of the Parliament's budgetary powers accepted by the Council on June 4 ought to receive an equal amount of emphasis. The agreement of that date includes the political decision that the Parliament has a right to *reject the budget as a whole*. The Parliament, supported by the Commission and some member States, has maintained all along that the words "and shall adopt the budget accordingly" in Art. 203, para. 6 allowed of an interpretation according to which the Parliament is entitled to totally reject the budget. From a legal point of view, this would seem to be skating on very thin ice. Therefore, the explicit grant of the right to reject the draft budget for important reasons and to request the submission of a new draft marks an important development. This, in a negative sense, already gives the EP the power to control the budget. The budgetary powers of some national Parliaments in practice do not necessarily go far beyond this type of negative control.

It has also been decided that Art. 203 will be revised in order to grant the EP increased powers of decision over expenditure necessarily resulting from the treaties or secondary legislation (so called *dépenses fatales*). If no such revision were undertaken, the EP would suffer a loss of power upon transition in 1975 from the interim period to the definitive period. The more generous provisions of Art. 203 a, para. 5 will therefore also apply with regard to the 1975 budget, even though no formal treaty amendment can as yet be effected. They specify that modifications of the draft budget, proposed by the EP, which relate to the *dépenses fatales* and which do not have the effect of increasing the total amount of an institution's expenditure, shall stand as accepted unless the Council by qualified majority vote decides to reject it. Where a modification proposed by the EP has the effect of increasing the total expenditure of an institution the Council must act by a qualified majority to accept it. Thus through the device of the *reverse majority* the EP is in a considerably better position to influence the budget with regard to compulsory expenditure. Moreover, the definition of what constitutes compulsory expenditure is by no means clear. If it is interpreted so as to designate only expenditure the exact amount of which has been fixed in existing rules, or which arises automatically from these, a wide range of items of expenditure could be classified as non-compulsory expenditure.

The right of the EP to make the final decision would increase correspondingly.

It will be interesting to watch the EP use its increased budgetary powers in regard of the 1975 budget. The Council has cut the Commission's draft by some 1,400 million units of account, reducing the total expenditure from 6,956 u.a. to 5,570 u.a. If the EP enters the items crossed out by the Council in the budget again, earmarking these as non-compulsory expenditure, this may constitute a first-class test of the Council's readiness to acknowledge that the Parliament can afford to speak softly on budgetary matters, because it is able to wield a sizeable stick.

Apology

The Publishers and the Editors wish to express their apologies to Mr. H. J. Bronkhorst, whose notes on cases 77/72 and 70/72 were published in the May, 1974, issue of this *Review*, for the incorrect spelling of his name.