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Institutional reform of the Council of Europe

Report

Bureau of the Assembly

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1. The Council of Europe is passing through critical times. The absence of the Ministers for Foreign Affairs at the last debate on international policy in the Assembly, and, in particular, that of the Chairman of the Committee of Ministers himself on the occasion of the presentation of the Statutory Report, have brought this crisis out into the light of day. Yet long before last October, all those who were following the work of the Council were noticing the symptoms and were aware of the seriousness of the crisis.

2. Is it not time to say that during the last three years, a period of intense European activity, which, after the rejection of the E. D. C., witnessed the first attempts at a " new drive for European unity ", the negotiation and the conclusion of the Rome Treaties and the proposal for a Free Trade Area, the Committee of Ministers has been standing aside from these major movements and confining itself to minor questions? Surely this must be recognised, without denying the importance in their particular fields of the Council of Europe Conventions elaborated or signed since 1955¹.

Within the Assembly, the lack of interest, not to say the discouragement, felt by a great many Representatives has been reflected in growing absenteeism at the plenary sittings and in committee meetings. Moreover, the press and public opinion have been paying less and less attention to the work of the Council of Europe. To be sure, the Strasbourg organisation is still viewed sympathetically, but with a sympathy tinged with sadness, as a body full of good will which cannot be expected to yield any practical results. Such, then, is the situation. Can it be remedied and, if so, how and to what extent?

1.1. I. A common political will

3. When the Assembly realised that this crisis was upon it, its first reaction was to lay the blame on the machinery itself; it decided to take up again the institutional reform of the Council. The Bureau, and rightly so, has endeavoured to go further than this reflex action and to lay bare the fundamental causes of this crisis. It has been led to conclude that the "Fifteen" have no common political will on the questions to which the Assembly devotes most of its time.

4. The two main concerns of the Assembly so far have been to work out a common European policy and to develop European integration by setting up supra-national bodies. On neither of these questions is there at present any fundamental agreement between the member countries.

Some members of the Bureau consider that this fact, however regrettable, should be recognised, together with its corollary that the Committee of Ministers cannot at the present time be expected to take any practical action on the decisions of the Assembly. Strengthening the statutory prerogatives of the Assembly within the Council would not change matters.

On the issues raised, the Assembly is an interesting and even an extremely useful " European forum ". It should go on playing this role while realising its present limitations.

These members of the Bureau noted that even among the Six, where there is a manifest desire for integration, there is no common foreign policy, or, at the present time, any plan to devise such a policy. It would hardly be realistic, then, to ask the " Fifteen " to do more. To acknowledge this fact does not mean abandoning the ideal of a common, or at least co-ordinated, foreign policy. It only means recognising that this is a long term objective.

5. Other members of the Bureau, without contesting this argument, feel that it is important to preserve, and even, if possible, to develop the political character of the Consultative Assembly. They point out that the Assembly of the six-Power Communities is empowered to discuss only economic questions. Having regard to the existence of an Atlantic organisation with ever-growing powers the Consultative Assembly remains the only political expression of Europe.

1. European Convention on the Equivalence of Periods of University Study; European Convention on Establishment; Agreement on the exchange of War Cripples with a view to Medical Treatment; European Convention for the Peaceful Settlement of Disputes; European Convention on Extradition; Agreement on the regulations governing the movement of persons between Member States of the Council of Europe.

The Assembly and many European bodies have expressed the desire that the European countries should co-ordinate their foreign policies more closely by devising methods of prior consultation and that they should endeavour to achieve a unified policy. The Assembly must continue to exercise pressure on the Committee of Ministers to this end, even though it is compelled to observe that the Committee has not so far undertaken such a task.

6. The Bureau agreed that the Assembly should be fully informed of this analysis of the facts and, in concluding its discussions, unanimously considered that the Assembly could and should, in accordance with its general aims, continue to debate at regular intervals major problems of European and world policy.

7. The Bureau also considered that the Assembly could try to achieve concrete and immediate results in the more circumscribed field of activities in which the " Fifteen " can manifest a common political will. At the present time, it would appear that such a will exists only in regard to effective inter-governmental co-operation in economic matters, and, to a lesser extent, in social, cultural, legal and administrative matters.

In these sectors, the Assembly and the Governments can and should endeavour to achieve even more substantial results than in the past—and, to this end, seek ways and means of more effective action in this field.

It is a fact that there is at present a division of effort between two independent, if not competitive, organisations. Consequently, a merger of the Council of Europe and O. E. E. C. is a prior condition for any institutional reform of the Council of Europe.

1.2. II. A merger between the Council of Europe and O. E. E. C.

8. This amalgamation is indispensable. A striking feature of the report of the Acting Secretary-General ([Doc. 682](#)), is the complexity of the procedures that have been devised for contacts between the two organisations. Stress has been laid on the " separate identity of the two organisations and on their strict independence ". Yet, these are organisations which, with two exceptions, have exactly the same members. It is hardly surprising that the Secretary-General recognises that risks of overlapping still exist.

This duality is inevitably harmful to one of those organisations, and, in the event, to the Committee of Ministers of the Council of Europe, which came into being after the O. E. E. C. was already firmly established. In addition, the Assembly lacks a real Governmental opposite number within the Council of Europe to follow what should be the essential aspect of its effective work, namely economic co-operation.

9. A merger between these two organisations is possible, as can clearly be seen from the report of the Secretary-General and Opinion No. 26 submitted by M. de la Vallee Poussin. It is necessary to go further than the administrative arrangements proposed in the report and to demand a radical solution such as is envisaged by the Secretary-General, namely, the conclusion of a convention for the merger of these two organisations.

A merger would enable the Consultative Assembly to function also as the Assembly of O. E. E. C. and the Free Trade Area. The Committee of Ministers of the Council of Europe and the Council of O. E. E. C. would be replaced by a single organ which would fulfil their combined functions. The two Secretariats would also be merged. Special arrangements would be made in regard to Portugal and Switzerland and the other countries associated in various ways with the work of O. E. E. C., so as to leave the manner of their association unaffected, should they not wish to participate in parliamentary work or governmental discussions on questions which at the present time come within the purview of the Council of Europe as such.

10. What can the Assembly do to promote such a merger? As is requested in Opinion No. 26 this merger must be treated as " a major political issue to be considered at Government level ". To bring this about something more is needed than the mere transmission of a Recommendation to the Ministers' Deputies.

The Bureau proposes that the Assembly should :

- a. instruct the Bureau to form a working party made up of a small number of Representatives and qualified experts, to work out in the light of the previous discussions of the Assembly, the report of the Secretary-General, Opinion No. 26 and the work of the Council of Europe/O. E. E. C. Liaison Committees the detailed basis of an agreement for a merger between the Council of Europe and O. E. E. C ;
- b. request the President of the Assembly and the Secretary-General subsequently to approach Member Governments and place the problem before them together with the Assembly's proposals.

1.3. III. Institutional reforms

11. The merger of the Council of Europe with O. E. E. C. would necessitate certain modifications designed to make the combined organisation a more effective body.

The Bureau has reviewed the proposals already made by the Assembly. It has been decided to communicate to all Representatives a memorandum, drawn up at the request of the Bureau by the Secretary-General, which summarises the text of these proposals and the action taken on them (Doc. 764). However, it considers that at the present stage the Assembly should confine itself to a few straightforward proposals for the acceptance of which it could press with greater authority. It suggests that the Assembly request simply the following four changes :

1.3.1. (a) Secretary- General Chairman of Committee of Ministers

12. Now that a prominent political figure has been appointed Secretary-General, this office should assume added authority. New arrangements should be made on the lines of those introduced by N. A. T. O . following the appointment of M. Spaak. In particular, the Secretary-General of the combined organisation should take the Chair at meetings of the Committee of Ministers and be empowered to speak on their behalf in the Assembly. This would ensure permanent liaison between the Assembly and the Member Governments, and the Secretary-General could play the dual role of instigator and conciliator.

1.3.2. (b) Extension of present powers of O. E. E. C. to Council of Europe

13. Under Article 13 (a) of the European Convention for Economic Co-operation, the OEEC Council is empowered " to take decisions for implementation by Members ". In the ministerial council of the combined organisation, this power should be extended to fields which are at present within the province of the Council of Europe alone.

The practice provided for in Article 14 of the OEEC Convention (" the abstention of any Members declaring themselves not to be interested in the subject under discussion shall not invalidate decisions, which shall be binding for the other Members ") should also be extended to the combined organisation, when it would form a useful complement to the procedure of partial agreements. Of course, this would not affect the provisions of paragraphs (b), (c) and (d) of Article 20 of the Statute of the Council of Europe, according to which certain decisions of the Committee of Ministers can be taken by a simple or qualified majority.

The Bureau wishes to emphasise the extreme moderation of this proposal which remains within the limits of the traditional forms of inter-Governmental co-operation. It would even appear that more flexible arrangements exist in some European organisations attached to O. E. E. C, such as the European Conference of Ministers of Transport.

1.3.3. (c) Publication of details of votes in the Committee of Ministers

14. The secrecy surrounding the Ministers' deliberations is one of the chief causes of friction with the Assembly. When a recommendation is rejected as a result of the opposition of one or more Governments, it is inadmissible that the Assembly should be left in the dark as to which Governments objected and on what grounds. Are not the details of voting in the United Nations Security Council made public, though the problems discussed there are infinitely more serious? What we are generally told is that publication of the voting would break up the solidarity of the Committee of Ministers—as if that Committee were a Government in which the secrecy of decisions safeguards the solidarity of Ministers. After all, in the latter case, the object of secrecy is to make the Government collectively responsible to Parliament, whereas in our case the only effect of secrecy is to enable the Committee of Ministers and the Governments represented thereon to evade all responsibility whether to the Consultative Assembly or to the national parliaments.

1.3.4. (d) Administrative and budgetary autonomy of the Assembly

15. The provisions in the Statute that relate to the Budget of the Assembly and the operation of the Office of the Clerk were laid down at a time when there was no European parliamentary assembly. Governments, with excessive caution, made them too restrictive. Since that time, much more flexible provisions have been adopted by the Assembly of the Coal and Steel Community—and indeed by the Assembly of Western European Union. A similar budgetary and administrative autonomy should now be granted to the Consultative Assembly.

16. The Bureau has also considered the question of the participation of Ministers in the debates of the Assembly. For many years now it has been the practice for the Statutory Report of the Committee of Ministers and the Supplementary Report to be presented during each part-Session by the Chairman of the Committee of Ministers or, on his behalf, by another member of the Committee. In view of the incident which occurred last October it might be desirable, in order to avoid any misunderstanding, for this obligation to be incorporated in the Statute.

The agreement of the Governments to the proposal (para. 12) to entrust the Chairmanship of the Committee of Ministers to the Secretary-General would render such a precaution superfluous. However, this point should be borne in mind during the discussions on institutional reform.

17. The Bureau would urge the Assembly to confine itself to the foregoing requests. Experience of seven years of negotiations for the revision of the Statute, and particularly those begun last year pursuant to Opinion No. 13-14, proves the futility of making too many proposals in too much detail so that the discussion gets bogged down in disputes between experts.

1.4. IV. Working methods of the Assembly

18. This report does not envisage an expansion of the statutory powers of the Assembly. The Assembly's authority and influence will be greatly enhanced when in addition to its present functions it assumes those of an Assembly for O. E. E. C. and the Free Trade Area; but it will retain its consultative character.

On the other hand, the Assembly must make a real effort to make full use of the opportunities already afforded to it under its Statute and adapt itself to the new developments foreshadowed here.

19. The Assembly complains of being nothing but a forum; yet it does not examine at sufficient length questions which could lead more rapidly to practical results. In the 1957- 1958 session there will have been three lengthy debates on general policy. It may be wondered whether their repetitious nature does not detract from their significance and from the Assembly's authority.

In the five years that it has been in existence, it has been exceptional for the Common Assembly of the E. C. S. C. to hold general debates on European economic integration, though this is a matter in the forefront of its preoccupations; yet the Council of Europe has debated the subject time and time again. The Common Assembly made a close study of the actual problems arising in the first common market and helped towards their solution, while the Consultative Assembly was making endless recommendations about economic integration and paying scant attention to the practical proposals elaborated by its committees in matters within the province of the Council of Europe.

20. As we have said above, the Consultative Assembly must continue to function as a " European forum " for certain broad issues. But its debates should be less frequent and less diffuse. It must devote the greater part of its energies to fields in which the Governments are politically of the same mind, so that it can really get to grips with the problems it takes up.

The merger of the Council with O. E. E. C. would give the Assembly wider responsibilities in the economic field, particularly if the Free Trade Area should materialise. The Assembly must realise that with closer economic co-operation it will be obliged to study more attentively developments in the economic situation and numerous other technical matters such as investment programmes in key sectors, transport organisation, the system of agreements, manpower movements, etc. When such problems, instead of emptying the seats in the Assembly Hall, become the main subjects of discussion; when, after they have been examined, Representatives are prepared to divide upon, or even reject, resolutions with some substance to them, then we shall be entitled to ask the Governments to give the Assembly wider powers and a more influential part to play.

21. In submitting these preliminary remarks on the institutional reform of the Council of Europe, your Bureau would like to emphasise that time is pressing. With the entry into force of the Rome Treaties and the talks on the Free Trade Area, it will be borne in upon Governments and parliaments in the coming months that there is a need for rationalisation. We must take advantage of these favourable circumstances. But we have little time in which to convince the Governments and induce them to take action. It is with these prospects in mind that the Bureau would like the Assembly to approach its discussions.

B. Draft Order submitted by the Bureau of the Assembly

The Assembly

Instructs the Bureau to set up a working party composed of a small number of Representatives and qualified experts, to work out:

1. the detailed basis of an agreement for a merger between the Council of Europe and O. E. E. C, taking, inter alia, as its point of departure, Opinion No. 26, the suggestions made during the debates in the Assembly, the Report of the Acting Secretary-General ([Doc. 682](#)) and the work of the Council of Europe/O. E. E. C. Liaison Committees; and
2. proposals for amending the Statute of the Council of Europe, taking as its point of departure the Report of the Bureau ([Doc. 763](#)) and bearing in mind the views expressed during the Assembly's debate thereon.

The working party will lay its findings before the Bureau, which, after consulting the appropriate Committees, will be required to submit proposals to the Assembly at the first part of the Tenth Session.