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Draft Multilateral Convention on the reciprocal treatment of nationals

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Sir David MAXWELL FYFE, United Kingdom

1. 1950 - 2nd Session - First part

Draft Recommendation

The Assembly,

Having considered the request for its opinion made by the Committee of Ministers on the possible conclusion between the Members of the Council of Europe, of a Multilateral Convention on reciprocal treatment for nationals;

Having considered the link already established between the Secretariat-General of the Council of Europe and the International Institute at Rome for the Unification of systems of Private Law with a view to carrying out preliminary work on a Draft Convention relating to Civil Procedures :

Having considered the great importance of ensuring fair and uniform treatment for the nationals of each Member in the territories of the other Members, in accordance with the aims of the Council of Europe as laid down in Article 1 of the Statute,

Recommends :

1. that the Committee of Ministers asks the International Institute for the Unification of Systems of Private Law to he so good as to initiate a preliminary study of a Draft Multilateral Convention on the reciprocal treatment of nationals ;
2. that this preliminary study be based upon the guiding principles appended to this Motion, and that it be carried out in close collaboration with the Secretariat-General, the Chairman of the Committee on Legal and Administrative Questions, and the Chairman of the ad hoc Sub-Committee, as also in consultation, whenever desirable, with those national and international scientific or administrative bodies competent to give useful information on the many aspects of the question;
3. that a preliminary draft be transmitted to it not later than the Ordinary Session of the Assembly for the year 1951.

Appendix APPENDIX

1. With regard to the right of entry and sojourn of nationals of the Members of the Council of Europe, the Experts are required to examine, without prejudice to the question of a European Passport, the possibility of abolishing visas, the grounds deemed valid for deportation, and formal guarantees against arbitrary deportation.

2. With regard to the practice of trades and professions, a certain assimilation of status of the nationals of the respective Members of the Council of Europe is desirable. Such assimilation may well begin with a recognition of the equivalence of professional degrees, of the inapplicability of restrictions imposed for the protection of the home labour market to persons who can prove that they have been regularly resident without interruption for at least 5 years. The Experts are asked to examine the possibility of recognising the equivalence of degrees, and the methods whereby might be established equivalent conditions for the obtaining of degrees, so as to achieve such equivalence. There is also one aspect of the question, that of the protection of the home worker, which clearly goes beyond the scope of the Resolution. The work of the Permanent Commission of the Brussels Treaty powers may well be consulted with advantage by the Experts.

3. In the matter of legal protection, its extension to the nationals in question may take the form of abolition of the Cautio judicatum solvi demanded in some countries from foreign nationals.

4. As for the utilisation of the public services, the question of admission to the welfare facilities in the way of medical and hospital aid (except in so far as they relate solely to social security regimes), these two questions may be usefully studied by the Experts. The advice of UNESCO might, incidentally, be requested on the question of admission to schools.

5. As for the exercise of certain public rights, the Experts may care to examine the question of granting persons who have resided in a given country for a certain number of years (5 years for instance), the right to vote for and be elected to the Governing bodies of Administrative and Economic concerns, (Chambers of Commerce, Chambers of Agriculture and Trades Councils).

The Experts shall also be at liberty to take into consideration the principle involved in the question of voting, the right to vote for and be elected to the Headquarters Command of local defence organisations.