Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Recommendation 1436 (1999)[1]

Negotiating rights of Council of Europe staff

Parliamentary Assembly

1. The Parliamentary Assembly of the Council of Europe has on several occasions made recommendations to the Committee of Ministers concerning the negotiating rights of Council of Europe staff, particularly in Recommendations 944 (1982) on salary negotiation policy in the "co-ordinated organisations"; Recommendation 1000 (1984) on the European civil service; and Recommendation 1102 (1989) on the conclusions of the Colloquy on Relations between Administrations and their Staff (national civil services and international civil service).

2. The Assembly regrets that these recommendations have not yet led to any significant progress.

3. In particular, the following problems are still outstanding:

3.1. the granting to Council of Europe staff of the rights embodied in Article 6 of the European Social Charter (the right to bargain collectively) and in Articles 2 (the right to information and consultation) and 3 (the right to take part in the determination and improvement of working conditions and the working environment) of the additional protocol thereto;

3.2. the application to Council staff of the rights set forth with regard to national civil servants in the International Labour Organisation (ILO) Labour Relations (Public Service) Convention (No. 151).

4. It is important first of all to differentiate between negotiation and two similar concepts, namely consultation and concertation:

4.1. consultation implies that the legal power lies with the person or institution responsible for taking decisions. The person to whom the decisions apply can only give an opinion on the proposed terms thereof. Consultation is viewed in some cases as a procedure which may be optional or compulsory, depending on the matters being dealt with;

4.2. concertation is qualitatively superior to mere consultation of one partner by another; it takes place within bodies comprising representatives of the two parties, so as to foster an exchange of opinions between them, the establishment of a dialogue such as to facilitate the convergence of their views, and the conclusion of an agreement between them;

4.3. negotiation goes still further than concertation in that it is based on legal equality between the partners and aims directly at the conclusion of an agreement between the parties concerned.

5. There is also a need for separate consideration of the area of salaries, in view of the Council of Europe's participation in the "co-ordination" system, and also of the other fields which come under the Organisation's internal law.

6. The Council of Europe's Staff Regulations lay down procedures for consultation and concertation between staff and their employer, but make no provision for negotiation in the strict sense.

7. Relations between the Committee of Ministers and staff are rather limited and of a sporadic nature, as may be seen both from the texts in force and from actual practice.

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1. See Doc. 8554, report of the Committee on the Budget, rapporteur: Lord Ponsonby. Text adopted by the Standing Committee, acting on behalf of the Assembly, on 4 November 1999.

8. The Assembly recalls that the implementation of procedures for consultation, concertation and negotiation is a guarantee of the Organisation's smooth running and efficiency since such procedures, which are in the mutual interest of the staff and the Organisation, enable the former to express an opinion on their working conditions and the latter to be informed about the needs and views of the staff whom it is called upon to administer.

9. In order to improve the present situation, a realistic approach demands that account be taken of the experience of other international organisations. In particular, the procedures devised at the European Space Agency have produced significant results in the field of labour relations and reflect a progressive approach to relations between the head of the secretariat and the staff.

10. Whereas in all democratic regimes employees take part in salary negotiations with employers on an equal footing, under the "co-ordination" system, relations between the government representatives on the Co-ordinating Committee on Remuneration (CCR) and the staff representatives on the Committee of Staff Representatives (CRP) do not go beyond the consultation stage.

11. The latest decisions of the councils of the co-ordinated organisations, adopted following proposals from the CCR, have created the conditions for de facto "de-co-ordination" between the six organisations participating in the system, particularly through the introduction of an "affordability" clause and the failure to adopt a salary adjustment method worthy of the name.

12. It is regrettable, moreover, that neither governments nor the representatives of the secretaries general have devoted the requisite attention to the goal of staff mobility between the six organisations.

13. Despite these limitations, there is no valid alternative to Council of Europe participation in the co-ordination system if salary decisions are to be based on in-depth, up-to-date studies of pay policies in the member states and in other groups of international organisations, as well as in the European Union.

14. In the light of the above considerations, the Assembly recommends that the Committee of Ministers:

14.1. urge the Secretary General and staff representatives to consider introducing on a trial basis a negotiation procedure modelled on that in force at the European Space Agency (ESA) and adapted to the specific structure of the Council of Europe. For this purpose, the ESA's practical experience of the system and the goals achieved through its use should also be taken into account;

14.2. invite the representatives of the staff to an annual colloquy similar to that held at the OECD between its council, at ambassador level, and the heads of the staff association, while devoting the necessary time to this matter and endeavouring to establish a genuine dialogue with the staff representatives;

14.3. repeat this exercise on an ad hoc basis when exceptional circumstances so require;

14.4. submit proposals for a reform of the regulations concerning the co-ordination system in accordance with Article 7, including in particular:

a. efforts to reform the chairmanship of the CCR in order to ensure that it is fully impartial, by providing in particular for it to be held by a person chosen by mutual agreement between the three parties (representatives of governments, the secretaries general and staff);

b. provision for decisions in the co-ordination system's fields of competence to be taken by new bodies bringing together the three existing ones, in which the Committee of Representatives of the Secretaries General (CRSG) would have two votes and the CRP one vote;

c. the introduction of conciliation machinery based on that existing in the European Communities, for sensitive issues and cases of serious disagreement, in order to resolve major conflicts and prevent legal disputes.