Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 1600 (2008)[1]

The Council of Europe and its observer states - the current situation and a way forward

Parliamentary Assembly

1. The observer states' relationship with the Committee of Ministers dates back to 1970 and with the Parliamentary Assembly to 1957. The relationship takes three forms:

1.1. observer status with the Council of Europe granted prior to any formal arrangements;

1.2. observer status with the Council of Europe as set out in Statutory Resolution (93) 26 adopted by the Committee of Ministers in 1993;

1.3. observer status with the Parliamentary Assembly (currently under Rule 60 of its Rules of Procedure).

2. Only one state (the Holy See) acquired observer status with the Council of Europe prior to any formal arrangements. This status was agreed in 1970 without any undertaking with regard to the Council of Europe's ideals and values being requested by the Organisation or made by the Holy See.

3. Four states have acquired observer status with the Council of Europe under the terms set out in Statutory Resolution (93) 26: the United States of America (December 1995), Canada (April 1996), Japan (November 1996), and Mexico (December 1999).

4. The parliaments of three states have acquired parliamentary observer status with the Assembly. The Israeli Knesset was granted observer status on an ad hoc basis in 1957, before the Assembly officially introduced it in 1961. The parliaments of Canada (since 1997) and Mexico (since 1999) were granted it in accordance with Rule 60 of the Rules of Procedure of the Assembly. It is important to note that Canada's and Mexico's parliamentary observer status is based on Statutory Resolution (93) 26.

5. Statutory Resolution (93) 26 was intended to create an institutional framework for increased co-operation between the Council of Europe and non-member states sharing the Organisation's ideals and values. It responded, inter alia, to the interest expressed by some non-member states in contributing to the stabilisation in the new democracies in central and eastern Europe. The resolution provides that any state willing to accept the principles of democracy, the rule of law and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and wishing to co-operate with the Council of Europe, may be granted observer status with the Organisation.

6. The existing framework as established by the statutory resolution contains no formal commitments and foresees no monitoring procedures. Observers are not legally bound by specific Council of Europe standards as enshrined in the Council of Europe's Statute and core conventions, and as upheld by various monitoring mechanisms. This situation is a source of misunderstanding between the Council of Europe and some observers on what the precise commitments of the latter are.

1. Assembly debate on 23 January 2008 (6th Sitting) (see Doc. 11471, report of the Political Affairs Committee, rapporteur: Mr Wilshire; and Doc. 11500, opinion of the Committee on Legal Affairs and Human Rights, rapporteur: Mr Omtzigt). Text adopted by the Assembly on 23 January 2008 (6th Sitting).

7. In this context, the Assembly recalls that the Committee of Ministers' resolutions granting observer status to the United States, Canada, Japan and Mexico clearly state that those states share the ideals and values of the Council of Europe. The Assembly expressed similar views in its statutory opinions on each request.

8. Furthermore, it can be argued that the granting of observer status to the four states under Statutory Resolution (93) 26 is recognition by the Council of Europe of a political commitment by observers to comply with in their legislation, to respect in practice, and to promote, universal principles of democracy, human rights and the rule of law.

9. On this basis, the Assembly believes that it would be appropriate and helpful to include observer states in the framework of its regular debates on the state of democracy, provided that the observers concerned wish it, are willing to co-operate in preparing reports and are given the possibility to participate in those debates.

10. The Holy See participates according to its specific nature and mission; it is not covered by the statutory resolution and was not required to give any undertakings. The status quo should be accepted.

11. The observer status of the Israeli Knesset with the Assembly was granted before the adoption of Statutory Resolution (93) 26 and has therefore no formal links to its general requirements. In addition, the State of Israel has never requested to be granted observer status with the Council of Europe under the statutory resolution. However, the Assembly considers that Israel, as a democratic state, should also be included in the debate on the state of democracy under the same conditions as mentioned in paragraph 9 above.

12. The Assembly believes the current situation where the granting of observer status entails no formal commitments needs revision before any new applications for observer status may be considered. One approach would be to attach to the general criteria set out in the statutory resolution a clearly defined set of standards to be elaborated by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe to which a state seeking observer status would commit itself to comply.

13. If this approach were to be adopted, states already enjoying observer status could be invited to undertake, on a voluntary basis, to comply with a mutually agreed set of standards. In this case, it would be important to accept that unwillingness to do so would be a perfectly acceptable response.

14. The Assembly considers that the existing institutional and organisational framework at intergovernmental level offers adequate possibilities for as large an involvement in the Organisation's activities as observer states may wish and are ready to make.

15. The Assembly encourages observer states to show political will in supporting the Council of Europe and to fully use the potential of their status.

16. The Assembly greatly appreciates the contribution of the parliamentary observers to the political debate both in plenary sessions and in committees. It encourages the parliamentary observer delegations to be better integrated into the political process in the Assembly, and is ready to discuss with them further steps to that effect.

17. The Assembly is also aware of the parliamentary observers' wish to be better heard in the Assembly, and to have more influence on its work. It is willing to take steps to facilitate this.

18. The Assembly welcomes the fact that a parliamentary delegation from the Japanese Diet attends one part-session per year in the framework of the enlarged debate on the Organisation for Economic Co-operation and Development (OECD) activities, despite having no formal relationship with the Assembly. It would be ready to explore a closer parliamentary relationship.

19. The Assembly regrets the lack of parliamentary involvement by the United States of America in its activities and wishes to take steps to establish a close working relationship with members of the United States Congress.

20. The Council of Europe's conventions are among its most important contributions to the development of democracy, human rights and the rule of law. Although some of them are only for signature and ratification by member states, most are open to non-member states as well.

21. The Assembly believes that observer states should be encouraged to sign and ratify such conventions as confirmation of their commitment to the ideals and values of the Council of Europe.

22. The fact that the observer states are not parties to Council of Europe conventions should not deter this Assembly, the Committee of Ministers, or other Council of Europe bodies, from raising with these states issues which are deemed to be fundamental.

23. The Assembly appreciates the support, including some substantial voluntary financial contributions, that observer states provide to Council of Europe programmes that seek to strengthen democratic institutions, to promote the rule of law and the respect for human rights in central and eastern Europe, especially in the Balkans.

24. The Assembly believes that co-operation between the Council of Europe and observer states should extend beyond governmental and parliamentary levels, and involve political parties.

25. The Assembly therefore invites all observer states to:

25.1. take account of well-established international human rights law standards and to promote the ideals and values of the Council of Europe, including in the fight against terrorism;

25.2. make full use of the opportunities provided by involvement with the Council of Europe as a forum for sharing experiences and best practices, a framework for seeking common answers to challenges that both the member and the observer states are facing, as well as a standard-setting body, particularly in the fields of democracy, the rule of law, human rights, and in other activities, if individual states so wish;

25.3. participate more actively in the work of the Committee of Ministers and its subsidiary bodies, and in all other Council of Europe bodies and mechanisms open for their participation, including the Forum for the Future of Democracy;

25.4. sign and ratify those Council of Europe conventions which are open to non-member states, and to contribute to the development of new instruments;

25.5. support the Council of Europe in various international fora on issues related to its core activities.

26. The Assembly resolves to invite observer states and parliaments to agree to be included in the framework of regular Assembly debates on the state of human rights and democracy.

27. The Assembly invites all parliamentary observers to integrate more effectively into the work and political processes in the Assembly, and in particular to:

27.1. fully participate in meetings and other activities of the political groups in accordance with their political affiliation;

27.2. regularly participate in the work of the Assembly's committees and sub-committees;

27.3. bring to the attention of the Assembly and of its committees issues of particular interest or importance, and to initiate, through appropriate arrangements, motions for resolutions and recommendations;

27.4. participate in the Forum for the Future of Democracy;

27.5. strengthen co-operation and exchanges of views between them during plenary sessions and to establish a mechanism and structure to facilitate this.

28. The Assembly invites its committees, in particular the Political Affairs Committee and the Committee on Legal Affairs and Human Rights to:

28.1. arrange regular exchanges with parliamentary observer delegations, both individually and collectively;

28.2. take responsibility for developing the involvement in all aspects of the Assembly's work of parliamentary observer delegations, both individually and collectively;

28.3. regularly and frequently inform the Assembly on the state of the relationships with parliamentary observer delegations, both individually and collectively.

29. The Assembly recommends that all its committees show maximum flexibility when dealing with issues of special significance for parliamentary observer delegations, for example by encouraging them to present position papers and complementary information memoranda.

30. The Assembly instructs the Bureau to:

30.1. subject to an agreement by observers to be included in the framework of regular Assembly debates on the state of human rights and democracy, establish the modalities for the participation of observers' representatives in the preparation of reports and in debates;

30.2. examine the possibility of extending the provisions of the Rules of Procedure that govern the enlarged Assembly debates on the activities of the OECD, with modifications as may be necessary, to other debates of special interest to observers;

30.3. examine the possibility for members of parliamentary observer delegations to take part in election observation missions organised by the Assembly;

30.4. examine the possibility of allocating time during part-sessions for parliamentary observers to present a report or initiate a debate should they wish to do so;

30.5. delay granting parliamentary observer status to any more parliaments until all the issues raised in this resolution have been resolved;

30.6. consider introducing new designations for existing parliamentary observers in line with any proposal that might be made by the Parliamentary Assembly and the Committee of Ministers of the Council of Europe;

30.7. prepare, on the basis of the Rules of Procedure of the Assembly, and taking into account best practices, guidelines on the participation of parliamentary observer delegations in the work of the Assembly, including in the Standing Committee and in committee meetings, and to ensure that these guidelines are applied uniformly.