Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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Creation of a permanent organisation for the peaceful settlement of disputes between Members of the Council of Europe

Report
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Paul BASTID, France

Draft Recommendation

The Assembly,

Called on to discuss a Motion relative to the creation of a permanent organisation for the peaceful settlement of disputes,

Considering that the Committee on Legal and Administrative Questions, when consulted, expressed the opinion reproduced below,

Gives its entire approval to that opinion,

Decides to transmit it to the Committee of Ministers', and

Recommends that the Committee of Ministers ensure that it is given effect.

The Committee's Opinion

In so far as concerns disputes justiciable in accordance with the definition contained in Article 17 of the General Act of Geneva, 1928, and with Article 36 of the Statute of the International Court of Justice, the Committee is of the opinion that a European Court for the settlement of disputes would overlap with the International Court of Justice whose jurisdiction has been accepted as binding by several Members of the Council of Europe and further that a new Court, unless it were subordinated to the International Court of Justice, would put an end to the unity of jurisprudence assured by the Hague organ and indispensable to the development of International Law.

On the other hand, the Committee recognises that it would be extremely desirable in order to make a reality of the concern for the preeminence of the Law which is set out in the preamble of the Statute, that the Members of the Council of Europe should consider the negotiation of a Convention which would ensure the settlement in a regular manner by the International Court of Justice of the justiciable disputes which may arise between them.

As for the settlement of non-justiciable disputes, the Committee raises the question whether, in view of the political nature of the majority of these disputes, their settlement or the choice of the methods of settlement can be considered to fall fully within the scope of the Council of Europe. With this proviso, the Committee suggests that the Committee of Ministers be invited to consider the expediency of extending effectively to all the Members of the Council of Europe the principle of the mandatory procedure of conciliation set out in article 8 of the Brussels Treaty, by obtaining the uniform adhesion of all Members to Chapters I and IV at least of the General Act of Geneva.