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The participation of non-member States in Council of Europe conventions

Reply to Recommendation¹: Recommendation 2029 (2013)
Committee of Ministers

1. The Committee of Ministers has carefully examined Parliamentary Assembly Recommendation 2029 (2013) on “The participation of non-member States in Council of Europe conventions”. This is a subject that has been extensively examined by the Committee of Ministers on the basis of a report prepared by the Secretary General on the review of Council of Europe conventions² and has led to the adoption of decisions by the Committee.

2. With respect to the recommendations made by the Assembly in paragraphs 2.1 and 2.2, the Committee of Ministers points out that, in its decisions on the review of Council of Europe conventions, it agreed to provide, in cases where there is no convention-based body including all the Parties, for participation, with a right to vote, by non-member States in part of steering committee or ad hoc committee meetings pertaining to the conventions to which those States are Parties.³

3. The Committee of Ministers notes that non-member States may acquire observer status with an intergovernmental committee in charge of the follow-up of a convention, in pursuance of the applicable rules on intergovernmental committees and subordinate bodies, their terms of reference and working methods.⁴ In accordance with paragraph 8.b of this resolution, any such State having an interest in following the work of an intergovernmental committee can submit a request to be admitted as an observer to the committee. As a general rule, the decision to allow the participation of non-member States as observers to intergovernmental committees is taken by the Committee of Ministers by a two-thirds majority of all the representatives entitled to sit on it.

4. The Committee of Ministers recalls that observer status would entitle the non-member State to participate, without the right to vote, in the intergovernmental work relating to the amendment of any such instrument.

5. Concerning the proposal to conclude prior to accession, bilateral arrangements or memoranda of understanding with a non-member State preparing to accede, it should be noted that there is no legal basis for requiring the conclusion of such arrangements/memoranda of understanding. Moreover, the process of conducting the necessary negotiations leading to the conclusion of such agreements would require considerable resources and would risk being cumbersome. This may also deter non-member States from participating and thus would run counter to the objective to attract them. Furthermore, the Committee of Ministers recalls its Resolution CM/Res(2013)7 in which it agreed that any Contracting Party to a Council of Europe convention providing for a follow-up mechanism, which is covered by the Organisation's budget which

1. Adopted at the 1206th meeting of the Ministers' Deputies (10 September 2014).

2. See SG/Inf(2012)12, paragraph 3.2 on measures relating to the promotion of conventions to the European Union and to non-member States.

3. See CM/Del/Dec(2013)1168/10.2.

4. Resolution CM/Res(2011)24.



is not a member of the Council of Europe shall be invited to make a financial contribution to the said convention in keeping with the arrangements laid down in this resolution when it participates as of right in the follow-up mechanism of the convention.

6. Following the adoption of the resolution, any non-member State expressing an interest to be invited to accede to a Council of Europe convention foreseeing a follow-up mechanism is informed by the Secretariat of the financial implications of such accession, as foreseen in Resolution CM/Res(2013)7. This information is also provided when the Committee of Ministers' decision to invite such a State to accede to the relevant Council of Europe convention is communicated to that State.

7. With respect to future Council of Europe conventions, it should be noted that in its decisions on the review of Council of Europe conventions, the Committee of Ministers agreed "when participation in a convention by non-member States is envisaged during the drafting procedure, on the need to insert a provision on financial contributions from those States". Such a provision would constitute a legal basis for requesting a financial contribution from non-member States.

8. Finally, the Committee of Ministers notes that in any event non-member States retain the possibility of contributing financially on a voluntary basis, as is already the case for certain conventions, for instance with respect to specific activities carried out in the implementation of the convention to the benefit of the contributing State.