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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

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# Draft opinion of the Assembly on certanin proposals contained in the Special Message of the Committee of Ministers which relate to the technical aspects of the work of the Council of Europe

**Opinion**[1]
Committee on Political Affairs and Democracy
Committee on Legal Affairs and Human Rights
Committee on Economic Affairs and Development
Social, Health and Family Affairs Committee
Committee on Culture, Science and Education
Co-rapporteurs: Mr Christopher HOLLIS, United Kingdom, and Mr Karl MOMMER, Germany, and Mr Per FEDERSPIEL, Denmark, and Mr Henri C. J . HEYMAN, Belgium, and Mr Christopher HOLLIS, United Kingdom, and Mr Henri ROLIN, Belgium

1. 1954 - 6th Session - Second part

**A. Introduction - Presented on behalf of the Committee on General Affairs by M. Mommer**

Having been asked by the Committee of Ministers for an Opinion on its Special Message transmitting to the Consultative Assembly the Programme of Work of the Council, the Assembly has decided to divide its Opinion into two parts. The first part (the present report) deals with the specific proposals contained in the Special Message concerning the technical aspects of the work of the Council of Europe ; the second part deals with the general questions raised in the Special Message This arrangement was adopted for the following reasons. I n view of the importance of the subject-matter of the Special Message, particularly that of the Chapter "General and political considerations", the Assembly before making its reply, decided first to hold a General Debate (which took place on 14th, 15th and 16th September, 1954) and then to await more detailed discussions by the Committees concerned. The Committee on General Affairs therefore drafted only a preliminary report( Doc. 264 )which will be put into its final form between September, 1954 and the opening of the Seventh Ordinary Session in May, 1955.

Apart from this, the political position with which the Assembly was faced in September, 1954 clearly shows that the role of the Council of Europe in the work of European unification will be affected by whatever may be the alternative solution to be found to the Treaty of Paris; The Assembly will draft " its final Opinion in the light of the alternative solution adopted.

The Assembly has considered, however, that it should immediately reply to the Committee of Ministers with regard to the technical proposals, in order that the latter may proceed with its work on these questions at intergovernmental level. I n this way it will be possible for the Assembly to be informed of the first measures taken by the Committee of Ministers in implementation of the programme of work through intensified intergovernmental co-operation to which the Committee of Ministers has pledged itself in its Special Message, before it formulates its final Opinion on the future role of the Council of Europe. Whatever may be the Assembly's final opinion on that role and on the structural changes which may prove necessary, the fact remains that the Council of Europe constitutes the principal medium of intergovernmental and interparliamentary co-operation among its member countries.

The Assembly wishes to lay. special emphasis on this point, in view of present discussions on the possibility of establishing or extending other intergovernmental organisations. Neither the Assembly nor the national parliaments will be disposed to allow that this essential basis of the existence of the Council should be challenged because European politics may take a new turn in a particular sphere.

The Assembly also recalls its frequently reiterated view that the Council should provide the general framework of European policy. It hopes that this view, which is shared in principle by the Committee of Ministers, will be bome in mind in any plans for a new system of Europcan cooperation which may develop from the proposals now under discussion for the organisation of the defence of Europe. Should the functions of the Brussels Treaty Organisation be extended in fields not directly connected with military affairs, the possibility should be considered of utilising in that connection the organs of the Council of Europe.

**B.**

**1. CHAPTER I**

***1.1. General and political considerations - Presented, on behalf of tho Committee m General Affairs, by 1 . Momme***

1. The Assembly confines itself for the moment to replying to the proposals made by the Committee of Ministers under the heading : "Co-operation between the Consultative Assembly and the Committee of Ministers" (paragraphs 10-12 of the Special Message) relating to access to meetings of Assembly Committees, of the Ministers' Deputies and of the Committees of Experts, and the exchange of documents between Assembly Committees, the Ministers' Deputies and Committees of Experts. I t has adopted the following Opinion on this matter :

***1.2. SECTION A***

*access to meetings of Assembly Committees, of the Ministers' Deputies and of Committees of Experts*

The Assembly,

Having regard to the request for an Opinion embodied in Paragraphs 10-12 of the Special Message of the Committee of Ministers concerning co-operation between the Consultative Assembly and the Committee of Ministers ;

Sharing the desire of the Committee of Ministers that such co-operation should so far as possible be increased,

*1.2.1. I*

2. Decides to extend the right to attendance and speech at meetings of the Assembly and its Committees, granted to Ministers by virtue of Rule 45 of the Rules of Procedure, to Ministers' Deputies holding the rank of Minister or Under-Secretary of State;

3. Authorises Committees to hear the Deputy of the Chairman-in-office of the Committee of Ministers, or any other Minister's Deputy, by invitation or at his own request, on one or more specific points ;

*1.2.2. I I*

4. Recommends that the Committee of Ministers should authorise the Ministers' Deputies and the Committees of Experts to hear the Chairman and Rapporteur of any Committee, by invitation or at their own request, on a specific point under consideration ;

5. Recommends that the Committee of Ministers should encourage personal contacts, particularly between the Committees and Sub- Commitees of the Assembly and the Committees of Experts, by setting up joint Working Parties.

***1.3. SECTION B***

*Exchange of documents between Assembly Committees, Ministers' Deputies and Committees of Experts*

The Assembly,

Being convinced that the exchange of. documents between the two organs of the Council would lead to a.better understanding of the respective intentions of each body,

*1.3.1. I*

Authorises Committees to communicate their documents to the Committee of Ministers as soon as they judge this possible ;

*1.3.2. I I*

Recommends that the Committee of Ministers should authorise :

*a.* the Ministers' Deputies to keep the Assembly regularly informed of the progress of their work ;

*b.* the Committees of Experts to communicate their documents to the appropriate Committees of the Assembly, as soon as they judge this possible.

### *1.4. SECTION C*

The Assembly instructs the Committee on Rules of Procedure and Privileges to study any consequential changes in the Rules of Procedure involved by Sections A and B.

7. With regard to the establishment of closer co-operation with the national Parliaments, referred to in paragraph 9 of the Special Message, the Assembly has adopted a Resolution providing for the transmission of texts to the national Parliaments, and the strengthening of the links between them and the Assembly.

## 2. CHAPTER II

### *2.1. Economic Questions*

*General Considerations — (paragraphs 23-26 of the Special Message) - Presented, on behalf of the Committee 1 Eeonomio Questions, by . Federspiel*

6. The Assembly is in full agreement with the Committee of Ministers concerning the right of initiative of the Council of Europe in all questions connected with the economic organisation of Europe, including those which are under consideration by other international organisations. The Assembly considers, however, that this right of initiative should apply not only in the technical, economic and social fields, but also in the field of general economic policy. The Assembly has always considered that its rôle in the economic field was to act as a European parliamentary tribiuie for discussing regional economic co-operation in Europe. The Assembly has never had any intention of itself implementing the policy of economic integration in Europe. I t regards itself as a body through which public opinion ean influence the economic co-operation undertaken by various organisations, and through which these specialised organisations can, in their turn, address public opinion. Moreover, the Assembly has always felt it its special responsibility to consider the economic measures proposed within the context of their political and social consequences, to which more technical organisations, on account of their differing constitution, cannot devote the same degree of attention. The Assembly is gratified to learn that the Committee of Ministers shares this view and it regards paragraphs 23 to 26 as confirmation of the policy so far pursued by the Consultative Assembly in the economic field.

7. The Assembly welcomes the suggestion put forward by the Committee of Ministers that it should increase the proportion of its debating time devoted to t h e discussion of major economic questions in order to keep public opinion informed on the progress of economic integration in Europe. The Committee on Economic Questions of the Assembly has already taken certain measures to this end. In September, 1953, for instance, the Committee instructed the Secretary-General to prepare, in consultation with O.E.E.C., E.C.E. and E.C.S.C., a study of the present position of economic integration in Europe, in order to ascertain whether the various methods of integration hitherto employed were compatible with one another, and to put forward constructive proposals concerning future efforts in this field. The Committee on Economic Questions hopes to have its final report on this problem ready for the first part of the Seventh Session of the Consultative Assembly, and the Assembly calls on the Committee of Ministers for support both as regards the publication of this study and in its transmission to the specialised organisations.

8. The Assembly trusts that the Committee of Ministers will take all appropriate steps to improve or facilitate relations between the Assembly and the Secretariat-General, on the one hand, and thè various specialised organisations working in the economic field, on t h e other.

*Strasbourg Plan — (paragraph 27 of the Special .Message)*

9. In its Recommendation 61. of May, 1954, the Assembly made known its view on the comments of O.E.E.C. on the Strasbourg Plan. • The Assembly notes that, in its Supplementary Report, the Committee of Ministers expressed the intention of reaching a conclusion regarding the proposals put forward by the

Assembly in its Recommendation 26 of September, 1952, as also its Recommendation 61 of May, 1954. Before it does so, however, the Assembly requests that the question be discussed in the Joint Committee, in the presence of representatives of the Committee on Economic Questions.

*Economic development of Southern Europe (para. 28 of the Special Message)*

10. The Assembly welcomes the suggestion from the Committee of Ministers that it should examine the problems of the economic development of Southern Europe. In accordance with the instructions given by the Assembly during the first part of the Sixth Session (Order of the Assembly No. 57), the Committee on Economic Questions has decided to set up a Working Party consisting of a representative of each of the countries concerned and four representatives for the remainder of the Member States. In view of the manifest urgency of early action to improve economic conditions in the area under consideration, this Working Party proposes to embark on its studies on the spot as soon as the necessary material has been made available, and will present its report to the Seventh Session of the Assembly.

*Convertibility (para. 29 of the Special Message)*

11. The Assembly has always been aware of the importance of the problem of convertibility of currencies — a problem which is of particular interest at the present moment. I t is transmitting its conclusions on this point to the Committee of Ministers in a special recommendation.

*Low Tariff Club (paras. 30-33 of the Special Message)*

12. The Assembly, which entirely approves the procedure followed and the action contemplated by the Committee of Ministers in this connection, considers that it would also be desirable for the Member Governments of the Council of Europe to call the attention of their representatives to G.A.T.T., to this Council of Europe plan and to the importance they attach to the regional aspect of this problem, which G.A.T.T. regards chiefly from a world point of view.

*European Companies (Paragraph 34 of the Special Message)*

13. The Committee on Economic Questions considers that the establishment of European Companies would not in every case represent a constructive contribution to the economic integration of Europe. The Committee on Economic Questions considers, however, that European Companies with a legal and administrative status jointly defined by Member States might be of real value in certain specific cases. The Committee on Economic Questions hopes that during the Seventh Session it will be able, in conjunction with the Committee on Legal Questions, to submit definite proposals on this subject.

*European Transport (Paragraph 35 of the Special Message)*

14. The problem of co-ordinating European transport will be touched upon in the report, referred to above, on the present position of integration in Europe.

*Agriculture (Paragraph Special Message)*

15. Nothing to record.

*Patents (Paragraph 37 of the Special Message)*

16. The Assembly expresses its satisfaction with the.results already achieved by the Committee of Ministers in this sphere, particularly as regards the questions of classification.

*Prevention of animal epidemics and protection of plants (Paragraphs 38-40 of the Special Message)*

17. The Assembly welcomes the suggestions put forward by the Committee of Ministers, and considers that a solution should be sought on the regional level.

## 3. CHAPTER I II

### *3.1. Social Questions - Presented, on behalf of the Committee on Social Questions, by M. Heyman*

18. The Assembly has expressed its opinion on this Chapter in Opinion No. 9, adopted on 28th May, 1954. "With regard to the drafting of a Social Charter it has given its views in the Preliminary Eeport Doc. 312[2].

## 4. CHAPTER IV

### *4.1. Cultural Field - 'resented, m behalf of the 'ommittee 1 Cultural d Soiontifi' Juestions, by If. Hollis*

19. The Assembly has given careful consideration to Chapter IV of the Special Message containing the principles on which the Committee of Ministers feels the execution of its cultural programme should be based. It has, moreover, attentively studied Apepndices I I to VI enumerating the precise proposals which the Committee of Ministers considers should be, if not put into effect, at least given preliminary examination by its Committee of Cultural Experts.

20. The Assembly welcomes the spirit of initiative underlying this both broad and varied cultural programme. I t notes with much interest that the proposals mentioned in Appendix III are already in process of implementation.

21. In general the Assembly feels that the limited financial resources at present possessed by the Coiuicil of Europe for developing its cultural activities are quite inadequate to meet the legitimate needs of an organisation which represents the common will of fifteen Member States. For this reason it strongly recommends a considerable increase in the cultural budget of the Council of Europe.

22. The views expressed in this Opinion in no way represent the final views of the Assembly on the general principles that it wishes to see applied in the cultural field. The Assembly reserves the right to express these to the Committee of Ministers at a later date. I n the meantime, the Assembly would emphasize that, in its opinion, it is not sufficient merely to suggest a number of isolated projects and then to proceed to carry out such projects in haphazard fashion, however desirable the implementation of each of such projects may be. I t is rather a question of devising a method whereby the cultural activities of the Covuicil of Europe as a whole may be selected and coordinated. First, the role which the Council, as an international organisation, might properly play in the cultural field must be clearly defined. Secondly, relations between the Council and other international cultural organisations, both governmental and non-governmental, must be systematised, and co-ordinated, since only by such co-ordination can the different tasks judiciously be allotted. Lastly, suitable criteria should be agreed for the selection and classification of the cultural activities of the Council. Such criteria cannot possibly be based solely on budgetary considerations.

23. The Assembly wishes to pay special tribute to the Committee of Cultural Experts on whose activities the cultural part of the Programme of Work was based. I t feels that these activities, in which the governmental initiative of the various Member States has proved as dynamic as.it has been fruitful, might in many respects serve as a model for all ministerial organs of the Council of Europe.

24. The Assembly, however, much regrets that it has not been more effectively associated with the work of the Committee of Cultural Experts, particularly as it fully appreciates the authoritative character of this experienced body. The Assembly feels co-operation within the Council of Europe to be particularly essential in the cultural field.

25. It considers, moreover, that co-operation between the Committee of Cultural Experts and the Committee on Cultural and Scientific Questions might extend beyond the preparatory work connected with the items on their respective agendas and should include, in appropriate cases, provision for the association of the Assembly with the practical achievements of the Committee of Cultural Experts.

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2. See also Doe. 305 (Report of the Committee on the problem of the Greek earthquake victims).

## 5. CHAPTER V

### *5.1. Scientific Field*

26. Nothing to record

## 6. CHAPTER VI

### *6.1. Legal and Administrative Questions*

*llarmonisation and unification of national laws - 'resented, in behalf of the Jommitteo Legal an Adlinistrativc Juestions, by M. Holm*

27. The Assembly notes with interest the suggestion of the Committee of Ministers that the work of harmonising national laws should l be pressed forward. Unification over the entire field of legislation is not, of course, a practical possibility and could not in fact be carried out with any lasting effect except by a transfer of legislative powers from the national Parliaments to a European Parliament. But it is without doubt desirable to unify laws •— and experience shows this to be feasible — in certain fields where divergences are found to create difficulties in relations between persons of different nationality. Unification of laws on such points should be a simple matter between States whose systems of law are based on similar principles and which share a desire to establish closer relations between them.

28. The Assembly does not believe it practicable, however, to lay down a general and systematic plan for the work which the Council of Europe might undertake in this field during the next few years. The method most likely to lead to satisfactory results is for the Council to take as a basis the needs encountered in practical life, and also to make use of such progress as may have been achieved in other quarters. As a starting-point, the Council should consider the studies on a number of questions which have been undertaken in various international organisations, both governmental and non-governmental, which are listed in the special message of the Committee of Ministers. Should it be found that the study of a specific question is desirable, and such question is not under examination by a specialised organisation, it would appear desirable for the Council of Europe to request whatever organisation it may think best qualified to do so to prepare a report on the matter.

29. In the opinion of the Assembly, however, a distinction should be drawn between the Hague Conference on Private International Law and other organisations not empowered to convene, on their own initiative, international conferences. One of the subjects on which national laws could most conveniently be unified is the law on the sale of goods (corporeal movables) between nationals of different countries. A draft uniform law on this subject was given a first reading at an international diplomatic conference held at The Hague in November, 1951 ; the text, as revised by a special committee, is to be submitted to another conference to be convened at a later date by the Netherlands Government. I t would clearly be inappropriate for the Council of Europe to undertake a study of the same question. I t appears, moreover, that most of the Member States are already participating in the meetings sponsored by The Hague Conference on this subject. I t might be suggested, however, that Iceland, Turkey and possibly the Saar, should also take part in these discussions, and that, should certain difficulties be raised by non- Member States of the Council of Europe, the Members of the Council should consider the possibility of signing a Convention within the framework of the Council.

30. With regard to other legal questions, a recent study by the Secretariat-General has shown that although the Eome Institute for the Unification of Private Law has prepared draft uniform laws, no official action has been taken on them. The work of the Institute to which this observation applies includes

30.1. Compulsory insurance for motor vehicles ;

30.2. The liability of inn-keepers for loss of, or damage to, goods belonging to guests ;

30.3. Arbitration procedure in respect of international relations in private law ;

30.4. Representation in international relations of private law.

31. The Assembly considers that the three first questions are of sufficient interest, for a study to be undertaken at once with a view to determining whether the laws of the Members of the Council of Europe concerning them could be unified on the basis of the draft laws prepared by the Rome Institute. In accordance with what are believed to be the wishes of the Committee of Ministers, the Assembly has already requested its Committee on Legal and Administrative Questions to undertake such studies. I t has also been suggested that, on the one hand, the laws concerning registered trade names of goods the origin of which is guaranteed,

should be brought into harmony, and that, on the other hand, practices should be made uniform, wherever conflicts arise between national penal laws. It has also been felt desirable that Member States should take into account judgments passed in other Member States wherever there may have been stay of judgment or in cases of renewed offences.

32. The Assembly, nevertheless, considers that it would be premature for it to undertake such work until more comprehensive studies have been made by specialised institutions. The Assembly suggests that, if the Committee of Ministers is agreed on the importance of these questions, the Secretary-General should be authorised to approach the Berne Office regarding the first, and the International Penal Law Association concerning the other two, in order that these bodies may begin preparatory work.

*European Commission on Civil Status*

33. The Assembly fully concurs with the opinion expressed by the Committee of Ministers that Member States could usefully arrange for the direct exchange between the competent authorities of information concerning civil status. It notes that protocols concerning the International Commission on Civil Status, set up in 1948 by an exchange of letters between Belgium, France, Luxembourg, the Netherlands and Switzerland, had been signed by thoso countries on 25th September, 1950 and 25th September, 1952, whereby other States may become members of the Commission. So far, only Turkey has accepted the invitation. The Assembly readily supports the view of the Committee of Ministers that the ten Members of the Council of Europe, which are not yet members of the Commission should also take part in its work.

*Simplification of frontier formalities for travellers*

34. The Assembly welcomes the decision of the Committee of Ministers to include this question in the Programme of Work of the Council of Europe and observes with satisfaction that the importance of its proposals is appreciated and recognised by the Committee of Ministers which finds them ' ' a valuable source of inspiration". The Assembly can assure the Ministers that, in réponse to their invitation to continue its work on these questions, it will spare no effort to secure improvements in the present situation and will not be content until this aim is realised.

35. The Assembly, nevertheless, finds it difficult to understand why the Committee of Ministers' expression of intention has not so far been backed up by positive action on its part during the whole year which has elapsed since Recommendation 51 was passed by the Assembly. This situation is thought by the Assembly to be unfortunate, and it is hoped that appropriate action will be taken by the Committee of Ministers without further delay.

36. The Ministers have, it is true, and this gesture is appreciated, transmitted the comments of thirteen Governments on Recommendation 51 to the appropriate Sub-Committee of the Committee on Legal and Administrative Questions. While these replies show some improvement in the attitude of some Governments as compared with previous statements/ the Assembly regrets that there should still be comparatively little understanding and insufficient appreciation among certain Governments of the need for reforms and of the very real possibilities of achieving them. A study of the comments of some Member Governments gives the impression that the views expressed on certain points may not be so much the views of Governments as those of their permanent officials at home. The Assembly cannot accept many of the comments put forward which seem to be based on the immutable principle that frontier formalities are one of the assumed discomforts of life.

37. The Assembly would, therefore, welcome a thorough and broad discussion at the Ministerial level of the possibility of reforms such as have been recently carried out successfully in the Scandinavian countries. The appropriate Assembly Sub-Committee recently had occasion, through the courtesy of the Danish authorities, to inspect the system of control recently instituted between the Scandinavian countries. It is quite convinced that equally radical yet practical measures can very well be taken by other European countries to free travel from unnecessary and useless restrictions and formalities. The experience of the Scandinavian countries shows conclusively that many of the technical difficulties mentioned by certain Governments are not insuperable and can be overcome with a little effort of goodwill and imagination.

38. It is to the Ministers themselves and their Deputies that the Assembly looks for prompt, resolute and far-seeing measures of simplification. As was pointed out in the Assembly's two reports, the whole range of existing frontier formalities should be approached with a fresh mind. Wherever it cannot be proved that their abolition would, in practice, result in generally harmful consequences, formalities should be swept away.

39. The Assembly formally pledges its support in this task. Already the legislatures in Prance and the German Federal Republic are about to take important decisions in these matters. Individual members of the Assembly have undertaken to urge Member Governments in their national Parliaments to implement the decisions of the Assembly. It is greatly to be hoped that, as a result of a combination of all these endeavours on the part of the Assembly and the Committee of Ministers, Member Governments will now join together, in the words of the Committee of Ministers, "with the aim of reducing to a minimum the delays and hindrances to which travellers in Europe are subject ".

*National Minorities*

40. The Assembly recalls, moreover, that in Document 77 of 1949 and in Document 6 of 1950, the attention of the Committee of Ministers, was twice drawn to the need for a moro precise definition of the rights of national minorities, the principle of which was later included in Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms. If the Committee of Ministers were of opinion that it is desirable to guarantee to national minorities other rights than the nondiscrimination as stipulated in this Convention, it would seem appropriate for this matter to be referred to and studied by the Commission of Human Rights.