Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 682
17 June 1957

Relations between the Council of Europe and O.E.E.C.

Request for an opinion
Committee of Ministers

Relations between the Council of Europe and 0. E. E. C. - RESOLUTION (57) 10 (Adopted by the Committee of Ministers on 29th April 1937)

The Committee of Ministers

Recalling its Resolution (56) 24 of 15th December 1956 on relations between the Council of Europe and 0. E. E. C.;

Taking note of the Report of the Acting Secretary-General submitted in accordance with the instructions contained in the said Resolution,

1. Decides to transmit the Report to the Council of 0. E. E. C. with a view to undertaking, in discussion with the Council, a thorough review of activities and structure of both organisations in order by joint effort to bring more strength to European co-operation. The discussion should take place through the medium of the Liaison Committees of the Council of Europe and 0. E. E. C, and a report should be submitted to the Committee of Ministers and the Council of 0. E. E. C. not later than 1st October 1957;
2. Decides to transmit the Report of the Acting Secretary-General to the Consultative Assembly for opinion.

Strasbourg, 15th March 1957

Duplication of work between European institutions

Relations between the Council of Europe and O. E. E. C.

Report by the Acting Secretary-General submitted in accordance with Resolution (56) 24

I. Introduction

1. The Committee of Ministers of the Council of Europe, by its Resolution (56) 24 of 15th December 1956, instructed " the Secretary-General of the Council of Europe to approach the Secretary-General of 0. E. E. C. with a view to preparing... a report on the respective competence of the organisations mentioned, on their present working relations, and on measures which might be taken to introduce more effective collaboration between them ".

2. The following report has accordingly been drafted after consultation and in agreement with the Secretary-General of O.E.E.C. The main body of the report deals with proposals for a more effective collaboration between the two organisations. Brief statements of the respective competence of the two organisations and their present working relations are contained in the Appendices.

II. The elements of the problem

3. In the preamble to Resolution (56) 24, the Committee of Ministers states that it shares the view that " overlapping in the competence and work of European organisations should be avoided as far as possible in the interests of efficiency ", and considers that •" a comprehensive study should in due course be made of the

institutional structure of European collaboration ". The present report, in the words of the Resolution, is to be regarded as " an introduction to this study", while being specifically concerned with the relations between 0. E. E. C. and the Council of Europe.

4. There has in the past been a certain amount of overlapping and consequent confusion in the work of the two organisations. There is, indeed, some difficulty of this kind at the present time, despite the elaborate machinery which has been devised in order to avoid it.

5. On the ot.her_Jiand, the competence of the Council of Europe is~ wider than that of 0. E. E. C, and overlapping can only occur in respect of the " economic " problems with which both organisations are concerned.

6. A distinction must, moreover, be made in that connection between the activities of the Committee of Ministers of the Council of Europe and those of the Consultative Assembly. When examining the problem of ensuring a proper co-ordination of the work of the various international organisations, the Committee of Ministers, after recognising that " it will usually be undesirable for (the Committee) to study a problem at the same time as the Ministerial body of another international organisation ", added that it " may often be helpful for the Assembly to do so, because it looks upon the issues before it from a different angle [1]". The Committee states later in the same report that on all questions arising out of the economic organisation of Europe, " the Assembly has a most important role to play : first, by bringing to light the political and social consequences of economic measures proposed, to which more technical organisations, on account of their differing constitution, cannot devote the same degree of attention; secondly, by informing and influencing European public opinion on economic issues[2] ".

7. The principal task of the Assembly may indeed be to guide parliamentary and public opinion by debating the broad issues of European co-operation. It is in the belief that in this way the Assembly can make a valuable contribution to the work of 0. E. E. C. that the proposals of this Report with regard to the relations between the Assembly and the Council of 0. E. E. C. are submitted.

Another important difference between the two organisations lies in the fact that their membership is not the same. Two Members of 0. E. E. C, Switzerland and Portugal, are not Members of the Council of Europe. In. addition, the United States and Canada, which have no official relations with the Council of Europe, are Associate Members of 0. E. E. C, and have the right to be represented on its Council and on all its plenary Committees[3].

Any proposals for closer collaboration between the Council of Europe and O.E.E.C. must evidently take full account of this difference of membership which, so long as it exists, must be held to exclude the straightforward solution, namely the fusion of the two organisations. It should be added that this solution has, however, been proposed in the past both in the Committee of Ministers of the Council of Europe and in the Assembly [4].

III. Possible solutions

10. Better co-ordination of the activities of European organisations could be sought in many ways. The complete solution to the problem would, however, be difficult to achieve; it would have to result from a comprehensive study of the institutional structure of European collaboration and would thus take a considerable time to put into effect. At the present time, it seems more practical to put forward solutions which will meet present or immediately foreseeable difficulties, leaving open the possibility of their later amendment in the light of experience. It is in this spirit that the Acting Secretary-General has prepared the following proposals.

---

1. See Special Message of the Committee of Ministers to the Consultative Assembly, 20th May 1954, Doc. 238 of the Consultative Assembly, para. 16.
2. Ibidem, para. 24.
3. It should also be noted that Spain has the status of a Member of 0. E. E. C. for agricultural questions, and Yugoslavia that of an observer for all questions.
4. c/. memorandum by the Swedish Government to O. E. E. C. of 5th January 1951 and Fifth Report of the Committee of Ministers to the Assembly of May 1954, Doe. 237 of the Consultative Assembly, para. 77 in fine, cf. also Recommandations 17 (1950), 18 (1950), 25 (1952), 46 (1953), 62 (1954); Reply to the Fifth Report of the Committee of Ministers, Doe. 261; Report on the Special Message of the Committee of Ministers, Doc. 264; Recommendations 101 (1956) and 117 (1957).

11. At the opposite extreme to the solution of complete fusion would be that of endeavouring to improve the present working relations by the development of the Liaison Committees, by the introduction of improved methods of communication between the Consultative Assembly and the Council of 0. E. E. C, and by the exchange of members of the two Secretariats. The closer collaboration between the two organisations which could be established by such means would, however, leave the essential problems intact, and, consequently, the need would remain for the existing complicated machinery of collaboration, whose character derives from the emphasis on the separate identity of the two organisations and on their strict independence.

12. It is suggested that in the present circumstances it is not enough to accept that the overlapping in competence between the two organisations will continue and to seek means to limit the resulting inefficiency : a more positive and constructive solution is required which will ensure that the work of the two organisations is in every respect and at all stages complementary, and will thus enable each to obtain the maximum benefit from the existence of the other.

IV. Solution proposed

Such a solution must contain three distinct elements :

1. direct relations between the Consultative Assembly of the Council of Europe and the Council of 0. E. E. C;
2. a better co-ordination and the avoidance of overlapping between the Committee of Ministers of the Council of Europe and the Council of 0. E. E. C. ; and
3. closer relations and the avoidance of duplication between the Secretariats of the two organisations.

14. In order to achieve the first objective, that of direct relations between the Consultative Assembly and the Council of 0. E. E. C, it should be provided that :

A. The Consultative Assembly could, if the countries concerned had indicated their agreement, invite parliamentary representatives from Switzerland and Portugal (and perhaps also from the United States and Canada) to assist in its deliberations when questions of interest to 0. E. E. C. were under discussion.

B. The Consultative assembly should be given the right to address questions and recommendations about matters within the competence of 0. E. E. C. directly to the Council of the latter, and to receive the Council's replies directly, without the intervention of the Committee of Ministers of the Council of Europe.

C. Representatives of the Council of 0. E. E. C. (who could be Ministers or their Deputies or members of the Secretariat) should have the right to appear before the Consultative Assembly or, as the case may be, before its Committees.

15. In order to ensure a better co-ordination and to avoid overlapping between the Committee of Ministers of the Council of Europe and the Council of 0. E. E. C, it is recommended that :

D. The governmental delegations to 0. E. E. C. and to the Council of Europe should be combined and should thereafter be responsible for the affairs of both organisations.

E. As a corollary to the provisions of paragraph B above, the Committee of Ministers of the Council of Europe should relinquish its right to deal with " economic " subjects in favour of the Council of 0. E. E. C. except insofar as the latter expressly indicates that it does not intend to take action in regard to any particular subject. In that eventuality agreement should be reached on the list of the " economic " subjects which are the special concern of 0. E. E. C. and with which the Committee of Ministers of the Council of Europe should not concern itself in the future except in agreement with the Council of 0. E. E. C, it being understood that all other questions remain within the competence of the Committee of Ministers.

Alternatively, a more drastic solution, but one which raises obvious difficulties, may be suggested, that is to say :

F. The Committee of Ministers of the Council of Europe and the Council of O.E.E.C. should be amalgamated to constitute a single body to discharge the functions of the Ministerial bodies of both organisations. Representatives of Switzerland and Portugal, and perhaps of the United States and Canada, would be invited to sit as observers when the amalgamated Council discusses questions which fall outside the competence of 0. E. E. C.

16. The third objective, that of avoiding duplication of effort between the Secretariats, would be achieved almost automatically if the foregoing proposals were adopted. The two organisations already to a large extent apply the same administrative rules and regulations. The adoption of the above proposals would make it

possible to pool certain of their services in the interests of economy and efficiency. Clearly, however, this desirable state of affairs would be difficult to achieve in practice (as would the amalgamation of the governmental delegations), so long as the headquarters of the two organisations remained separated by a distance of 500 kms.

It therefore seems essential to recommend that :

G. The headquarters of the two organisations should be situated in the same city and, if this is possible, in the same building.

V. Conclusion

17. The establishment of the Common Market and of Euratom will provide the opportunity to introduce important measures of rationalisation in the institutional framework of the European organisations which have executive powers of their own. It would seem indicated that a similar effort of rationalisation should be made simultaneously in the structure of the two major European intergovernmental organisations and should, moreover, be made in such a way as to bring about the progressive co-ordination of the activities of the two groups of organisations.

18. The most logical solution, and the most efficient and economical from the point of view of effort and expense, would no doubt be to amalgamate the two organisations. Such a solution would, however, require the adoption by all the States concerned of a Statute or Convention for the resulting single organisation, which would at the least incorporate all the competence and powers contained in the Convention of 0. E. E. C. and in the Statute of the Council of Europe. This might not present difficulties for the Member States of the Council, but the final say in the matter would seem to belong to the States which are Members of 0. E. E. C, but not of the Council.

19. Indeed, in presenting these recommendations, the Acting Secretary-General is conscious that he is making proposals which it may be difficult for all the Members of the organisations concerned to accept. He believes, however, that they are essential if all the possible benefits are to be gained by all Member States from the existence of the two organisations. Moreover, apart from their immediate benefits to 0. E. E. C, and the Council of Europe, it is suggested that the proposals in question, insofar as they refer to the Assembly, fit naturally into the plans for the creation of a single European parliamentary Assembly, foreshadowed in recent Government declarations.

Appendix

APPENDIX I - Competence of the Council of Europe and of O. E. E. C.

1. It seems advisable, in the light of the preceding report, to widen the scope of the present investigation so as to cover not merely the competence of the two Organisations in the strict sense, i. e. their functional competence, but also their competence understood in a broader sense. Thus the legal character of the two Organisations, the legal effect of their decisions, their territorial scope and the powers of the two Secretaries-General may all be briefly analysed.

2. The functional competence of the Council of Europe is defined in Article 1 (a) of the Statute which states that " the aim of the Council of Europe is to achieve a greater unity between its members for the purpose of... facilitating their economic and social progress. - " According to Article 1 (b), " this aim shall be pursued through the organs of the Council, ... by agreements and common action in economic, social, cultural, scientific, legal and administrative matters... "

3. The aim of 0. E. E. C.—as defined by Article 11 of the Convention for European Economic Co-operation—is " the achievement of a sound European economy through the economic co-operation of its members ". - The general obligations in Part I of the Convention set out the aims which the members of 0. E. E. C. should pursue inside and outside the Organisation, in order to carry out their pledge " to work in close co-operation in their economic relations with one another " (Article 1). Thus the Member States are to promote " the development of production, through the efficient use of their resources " (Article 2), to develop " interchange of goods and services " and institute a multilateral system of payments among themselves (Article 4), to study customs unions or arrangements such as free trade areas (Article 5), to reduce tariff and other barriers to trade (Article 6) and to maintain internal financial stability (Article 7). Finally, they are to endeavour to provide full employment, to facilitate the movements of workers and, more generally, to reduce obstacles to the free movement of persons. - The main junction of 0. E. E. C. is —in the words of Article 12 (a)—to prepare and implement, within the sphere of collective action, the measures necessary to achieve the aim of the Organisation and to facilitate and co-ordinate the individual action of the Members. Besides some other functions defined in this Article the Organisation " may also assume such other functions as may be agreed ".

4. It follows from these texts that the Council of Europe has a general competence extending over a wide range of subjects, while the competence of 0. E. E. C. is limited to economic matters in the broadest sense of the term, including, for example, the study of human relations in industry in so far as increasing productivity makes this necessary. The Council of Europe and 0. E. E. C. are therefore both competent in economic matters, and it may be opportune in this connection to recall paragraph 1 of the Preamble to Recommendation 46 (1953) of the Assembly, which states that " the general aims of 0. E. E. C. and those of the Council of Europe are fundamentally identical". Nevertheless, even though it is true that the Council of Europe also has competence in economic matters, it is clear that the economic activities of 0. E. E. C. go far beyond those of the Council of Europe.

5. This situation has led to overlapping, not only in strictly economic matters, but also with regard to manpower questions, simplification of frontier formalities, surplus population and housing.

6. The legal character of the two Organisations is of some importance in the context of the present report. Indeed it is the key to the question whether the overlapping of competence is general or not-—that is to say, whether it affects all or only some of the organs of the two Organisations. - The Council of Europe has a mixed legal character, consisting as it does of a Committee of Ministers and a Consultative Assembly (Article 10 of the Statute). As regards the Committee of Ministers it is intergovernmental and as regards the Assembly it is international and parliamentary, and each of the two organs enjoys a certain internal independence vis-a-vis the other. - 0. E. E. C, on the other hand, is purely intergovernmental in character.

7. It follows that there is overlapping of competence, from the strictly legal angle, at the intergovernmental level—that is, at the level of the Committee of Ministers. On the other hand, there is none at the level of the Assembly; for the latter, in virtue of its parliamentary character, can discuss economic questions of all kinds without there being any question of overlapping of competence; overlapping can only occur when these questions come up before the Committee of Ministers for a decision.

8. The legal effect of the decisions taken by the two Organisations is not the same. According to Article 15 of the Statute of the Council of Europe, the Committee of Ministers, which, under Article 13, acts on behalf of the Council, only adopts " conclusions " or " Recommendations ", which are communicated to Members; but Article 13 of the Convention for European Economic Co-operation provides that 0. E. E. C. may take decisions for implementation by Members, make recommendations to the United States Government, to other

Governments and to international organisations, and also enter into agreements with Governments and international organisations. - It would be a mistake to minimise the importance of the " conclusions " and " recommendations " of the Committee of Ministers, since in practice the Governments follow the suggestions which they contain; but these terms have not the same legal significance as the " decisions " taken by 0. E. E. C, which have executive force. However, the Council of Europe, according to its Statute, may draw up Conventions which are binding on its Members and may, moreover, undertake action in the political, economic, social, cultural, scientific, legal and administrative spheres, whereas 0. E. E. C. must confine itself to economic matters as explained in Section 4 above.

9. It is also worth pointing out that all decisions of the Council of 0. E. E. C. must be unanimous, while the Committee of Ministers of the Council of Europe may, in certain cases, take decisions by a two-thirds majority. - Exceptions are allowed to the unanimity rule in 0. E. E. C. by mutual agreement in some special cases, and also when a Member has no interest in the question to be decided.

10. The territorial competence of the two organisations is not the same. 0. E. E. C. includes two Members, Portugal and Switzerland, which are not Members of the Council of Europe, and two Associate Members, the United States and Canada. Spain and Yugoslavia, moreover, take part in some of 0. E. E. C.'s activities.

11. The powers of the Secretaries-General of the two Organisations are not identical. The Secretary-General of the Council of Europe, according to Article 10 of the Statute, only "serves" the two organs of the Council; but the powers of the Secretary-General of 0. E. E. C, according to Article 17 (c) of the Convention, are slightly greater from the legal standpoint in that he has " the right to participate in discussions... at the meetings of the Council, the Executive Committee and, as required, at meetings of the technical committees and the other bodies ". Secondly, the Secretary-General of 0. E. E. C. " will ensure the execution of their decisions in accordance with the general and specific instructions of the Council and the Executive Committee " (Article 17 [c]). Finally, it is laid down in the Annex to the Convention for European Economic Co-operation that the Secretary-General " may submit proposals to the Council and to the Executive Committee ".

APPENDIX II - Present state of working relations between the Council of Europe and O. E. E. C.

The relations between the Council of Europe and 0. E. E. C. are governed by the texts adopted in July 1952, November 1953 and June 1956, both by the Committee of Ministers of the Council of Europe and by the Council of 0. E. E. C.

The principal forms of co-operation provided for are as follows :

1. A Liaison Committee has been set up in each Organisation. These committees formulate proposals for improving the co-operation between the two Organisations and see to it that the texts are implemented. Since their inception, the liaison committees have held 16 joint sessions.

2. A Survey is [prepared by 0. E. E. C. for each Session of the Consultative Assembly, or at any other time which the Council of the Organisation may deem opportune. Hitherto, 0. E. E. C. has prepared seven Surveys for the Council of Europe, the last in September 1956. On some occasions the OEEC Annual Report has been transmitted instead of the ad hoc Survey provided for in the texts. - The OEEC Survey is usually presented to the Assembly by a Minister who is appointed de jure by the Committee of Ministers but is, in fact, chosen by the Council of 0. E. E. C.

3. 0. E. E. C. sends the Council of Europe certain " restricted " documents to keep the members of the Consultative Assembly informed of its work.

4. When an OEEC technical committee considers it appropriate, an observer from the Council of Europe (the Secretary-General) may be invited to attend one or more of its meetings. The Council of Europe may also be invited to send an observer to meetings of technical committees whenever they deal with an Assembly Recommendation transmitted to 0. E. E. C. by the Committee of Ministers. - The Council of Europe may be invited to send an observer to the agricultural bodies of 0. E. E. C. whenever their activities relate to questions concerning the Council's work in the sector of agriculture and food. - Finally, the Council of Europe may be invited to send an observer to the meetings of the Council of 0. E. E. C. whenever it deals with questions which have been submitted by the agricultural bodies or technical committees after discussion in the presence of an observer from the Council of Europe, or with Recommendations of the Consultative Assembly referred to 0. E. E. C. by the Committee of Ministers. - The only technical committees of O.E.E.C. hitherto attended by a Council of Europe observer are the Manpower Committee and, since the beginning of 1956, the Tourism Committee. The Council of Europe is represented at the meetings of the Committee of Deputies of the

Ministerial Committee for Agriculture and Food and, at the beginning of December 1956, the Secretary-General of the Council of Europe was invited for the first time to attend a meeting of the Council of 0. E. E. C. when it discussed a report submitted by the Manpower Committee.

5. 0. Ë. E. C. is invited to keep in touch with the work of the Council of Europe committees of governmental experts which deal with economic and social matters of common interest. - Hitherto, 0. E. E. C. has sent an observer to the committees of experts studying the reciprocal treatment of nationals and problems of social security, and to sessions of the Social Committee. - It should also be noted that on several occasions members of the OEEC staff have been invited to attend meetings of the Deputies in order to give them information on matters of common interest (frontier formalities, terms of reference of the Social Committee).

6. Committees of the Consultative Assembly concerned with economic and social matters may consult OEEC experts at the special sessions of the liaison committees. Hitherto the liaison committees have held twenty special sessions. The meetings usually begin by statements from the experts of the OEEC Secretariat and continue with exchange of views between them and the members of the Assembly Committee attending the meeting. On certain occasions, persons other than members of the OEEC Secretariat have been associated with the consultations, such as Professor Nicolai'des, Chairman of the OEEC Special Committee on Nuclear Energy. It is, moreover, laid down (text of June 1956), that when consultations on agricultural problems are held, the Chairman and Vice-Chairmen of the Committee of Deputies of the Ministerial Committee for Agriculture and Food shall participate. Thus, M. Papi, Chairman of this Committee, attended the 19th special session held in October 1956 with the participation of members of the Assembly's Special Committee on Agriculture. - The majority of the special sessions have been devoted to an exchange of views between 0. E. E. C. and the Economic Committee. There have, however, also been sessions attended by the Committee on Social Questions, the Committee on Population and Refugees, the Special Committee on Agriculture and the Committee on General Affairs.

7. When an Assembly Recommendation is referred to 0. E. E. C. for study by the Committee of Ministers, a representative of the Council of Europe appointed by the Committee of Ministers may be invited to attend a meeting of the appropriate body of 0. E. E. C. in order to give all the necessary explanations and information. This procedure, laid down in the text of June 1956, enables Chairmen and Rapporteurs of Assembly Committees which have prepared Recommendations to give OEEC information on the proposal referred to it. The procedure was used for the first time in connection with Recommendation 95 concerning the economic development of Southern Europe, referred to 0. E. E. C. in September 1956. - [It is also specified in respect of Recommendations referred to 0. E. E. C, that the Secretary-General of the Council of Europe shall provide the relevant bodies of 0. E. E. C. with any additional explanations which they may need in the course of their work. - It was in accordance with this provision that the Secretary-General was invited to a meeting of the OEEC Liaison Committee to discuss the action to be taken on Recommendations 77 and 78, referred to 0. E. E. C. by the Ministers' Deputies (December 1955)].

8. The Secretary-General of the Council of Europe may consult the Secretary-General of 0. E. E. C. in order to obtain expert advice or information required to facilitate the solution of problems to be discussed by the Committee of Ministers, or due to be submitted to it at a later stage, while they are still under study by 'the Assembly or its Committees.

9. The Secretary-General of 0. E. E. C. may be invited by the Secretary-General of the Council of Europe to attend meetings of an ad hoc working party set up by the Council of Europe to enquire into a given problem. In accordance with this provision, OEEC experts participated in the working party which drew up the Strasbourg Plan and the report on the economic integration of Western Europe.

10. The Secretaries-General of the two Organisations may, whenever the need is felt, hold joint meetings. Such meetings took place in March 1954 and in November 1955.

11. The Secretaries-General of the two Organisations may set up liaison groups, drawn from their own staffs, for the purpose of exchanging views with each other on specific points. At their joint meeting in March 1954, the Secretaries-General decided to create two liaison groups, one for social, demographic and manpower problems, and the other for administrative matters. - These two groups have now finished their work and co-operation in these fields is being maintained largely thanks to personal relations between the staff of the corresponding departments in the two Organisations. - Such contacts between the staff of the two Secretariats are numerous and are additional to the procedure for co-operation laid down in the texts. It is through them that the closest relations are ensured and many results obtained.