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Improvements to be made in the machinery of the Council of Europe

Report¹

Committee on Political Affairs and Democracy

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1. 1958 - 10th Session - Second part



A. Draft Recommendation

I

1. The Assembly,
2. Having received and debated the Report of the Secretary-General — European Unity: Achievement and Prospects (Doc. SG (58) 1)— which was prepared on the basis of Resolution (57) 26 of the Committee of Ministers;
3. Thanks the Secretary-General for this important and valuable report, trusts that he will continue, as in the past, to make available to the Committees of the Assembly the benefit of his experience and, in particular, expects him, when occasion arises, to feel free to submit his views to the Assembly, appropriate arrangements being made with the Bureau;

II

4. Recalls that the Assembly has asked the Committee of Ministers to submit to it once a year a Message outlining the achievements in the field of European integration of the previous year and the plans for the forthcoming year; this Message which should be the subject of a general debate in the Assembly would mean a return to the former practice of the Committee of Ministers, discontinued after 1953, of sending the Assembly at the beginning of each session a "political" message additional to the Statutory Report, which principally records the activities of the Committees of Experts working for the Committee of Ministers in the social, cultural, legal and other fields; and
5. Requests the Committee of Ministers to give a definite reply to the Assembly's proposal;

III

6. Having noted that the main suggestions of the Secretary-General fall under three headings (greater co-ordination in foreign policy, European Economic Association and merging of the Council of Europe and O. E. E. C, Together with improvement to be made in the machinery of the Council of Europe) and that of these the first two are the subject of separate general debates,
7. Expresses its strong support for the improvements in the machinery of the Council of Europe proposed by the Secretary-General and its earnest desire:
 - a. that the Committee of Ministers should examine the possibility of being empowered, like the Council of O.E.E.C., to take "decisions" binding on Member Governments;
 - b. that the procedure for concluding "partial agreements" should be made more flexible and should be more extensively used; and that to help solve the technical and administrative difficulties that might arise from the conclusion of partial agreements the Secretary-General should be authorised by the Committee of Ministers to get in touch direct with the Government Departments concerned;
 - c. that the Committee of Ministers should delegate to the Secretary-General the task of following up its own recommendations to Member States and should inform the Assembly regularly of the action taken on them by Governments;
 - d. that the Assembly's Recommendations should be answered in detail;
 - e. that the Committee of Ministers or the Deputies, when transmitting Assembly Recommendations to Committees of Experts, should inform them of their political views and give them precise instructions on the aims to be attained;
 - f. that the Joint Committee should be enabled to function as the co-ordinating agency between the Committee of Ministers and the Assembly;

IV

8. Calls on the Committee of Ministers to realise that at a time when the six-Power Community is forging ahead it is not sufficient for the wider Fifteen-Power Community to react with the proposal for a European Economic Association, but that it is necessary to have a new spirit in the Committee of Ministers of the Council of Europe in all other spheres of European co-operation; and

9. Requests the Committee of Ministers to draw up a programme for the year 1959 setting itself certain concrete goals to be achieved within that year.

B. Explanatory Memorandum

1.

The draft Recommendation presented by the Political Committee substantially endorses the Report by the Secretary-General of the Council of Europe European Unity: Achievement and Prospects.

As the very nature of his duties requires, the Secretary-General has proposed quite moderate reforms. Drawing on his own experience he has tried to indicate methods by which the working efficiency of our organisation could be improved without altering its character or laying a finger on the Statute. When he suggests changes in the present arrangements, it is never a matter of challenging the rights of Member States, but simply of adopting more realistic methods of procedure which would either save time or improve the preparation of texts.

The Political Committee begins by thanking the Secretary-General for his Report. It considers that one of the essential functions entrusted to him by the Committee of Ministers is to ensure that, in general, the Council of Europe operates effectively and to express his views on the subject with complete independence both to the Committee of Ministers and to the Assembly.

Among the recommendations made by the Secretary-General, the Committee considers that action should be taken on his idea of reverting to the former practice of the Committee of Ministers of sending the Assembly each year, a 'political' message outlining the results of the year's work for European integration. It is very important that the Committee of Ministers should be responsible, every year, for summing up developments and indicating what progress has been made in the task of building up European unity.

Recently the Committee of Ministers seems to have been mainly preoccupied with the more or less day-to-day activities of the Council of Europe and, in particular, with the work of the Committees of Experts in the cultural, social, legal and other fields.

Thus, the main objective of the Council of Europe is in danger of being lost sight of, unless the Committee of Ministers and the Assembly discuss together, at least once a year, what they have done to bring about greater unity among the nations of Europe.

Certain of the Secretary-General's suggestions— those concerning the co-ordination of foreign policies and the merger of the Council of Europe with O.E.E.C.—have been discussed in other reports. In this Memorandum we only consider the Secretary-General's suggestions for improving the working methods of the Council of Europe..

These improvements¹ are enumerated in paragraph 7, sub-paragraphs (a) to (f), of the draft Recommendation.

(a) The Committee' hopes that the Committee of Ministers and the Council of Europe will be empowered, like the Council of OEEC., to take " decisions " binding upon Member Governments.

Under the present system all that the Committee of Ministers can do is to adopt Recommendations which are not binding upon the Members. Governments receive the Recommendations and act upon them, or not, as each of them sees fit.

The Council of Europe is the only international organisation whose executive organ does not have the power to take decisions, and a great deal of the weakness and ineffectiveness of our Organisation is due to this defect—which in a way turns the Committee of Ministers into a mere debating society discussing without coming to conclusions, or at any rate without having the responsibility for carrying out what it recommends.

None of the Member States of the Council of Europe have raised objections to giving the Council of O.E.E.C. power to take unanimous decisions, within the limits of the Governments' own powers. It is difficult to see why the Foreign Ministers, meeting within the framework of the Council of Europe, should be content with truncated powers, at a time when it appears more necessary than ever for Governments to be able to take quick decisions.

In the event of the Council of Europe being merged with O.E.E.C. the problem would, of course, be solved automatically; but if some time should elapse before the amalgamation takes place, it would be necessary to amend the Council's Statute. The amendment would first have to be embodied in a Recommendation, adopted unanimously by the Committee of Ministers.

(b) The present Statute of the Council of Europe makes agreements difficult on account of the excessively rigid unanimity rule, which all too frequently paralyses the Committee of Ministers.

Experience has led Governments to adopt a certain flexibility and permit the conclusion of partial agreements. Unfortunately the desired end does not seem to have been achieved, because the arrangement for partial agreements is, in the Council of Europe, that laid down by Resolution (51) 62, which provides for a less effective procedure than that adopted by OEEC for the same purpose.

In the Council of Europe the Committee of Ministers has first to decide unanimously whether a proposal may be adopted by a limited number of its Members, and it is only after this preliminary vote that the proposal may be adopted by a certain number of States only, the other Governments abstaining.

The partial agreement procedure, which might be used in all sectors of the Committee of Ministers' activities, has so far only been employed honce — and then most successfully — in establishing the Resettlement Fund for national refugees and surplus population.

The Consultative Assembly has suggested on several occasions that the Committee of Ministers should dispense with the preliminary vote authorising the use of the procedure for partial agreements.

The Ministers' Deputies, or at any rate a majority of them, have rejected this recommendation.

The Political Committee considers that the Committee of Ministers should reconsider its decision and adopted the procedure followed in O.E.E.C. Article 14 of the OEEC Convention reads as follows:

" Unless s the Organisation otherwise agree for special cases, decisions shall be taken by mutual agreement of all the Members. The abstention of any Members declaring themselves not to be interested in the subject under discussion shall not invalidate decisions, which shall be binding for all the other Members. "

The procedure used in O.E.E.C. has the advantage of avoiding the formality of the preliminary vote and is in effect the same as that recommended in the Resolution on partial agreements.

In order to help in the preparation of agreements and conventions to be signed by the Governments, the Committee proposes, moreover, that the Secretary-General should be authorised by the Committee of Ministers to take appropriate steps to solve any technical or administrative difficulties that might be preventing a unanimous vote, even though the decision in question is not contrary to any important national interest. It too often happens that Government Departments at home, being insufficiently informed of the work of the Council of Europe, take no interest in the Recommendations of the Assembly either because they do not see their usefulness or because they overestimate the difficulties of giving them effect in their own country.

It is therefore essential to establish contact between the Secretariat of the Council of Europe and the Government Departments concerned, for the purpose of exchanging information.

The Secretariat of the Council of Europe ought to be entitled to explain the precise meaning of the Recommendations of the Assembly or the Resolutions of the Committee of Ministers to the appropriate officials in member countries, with a view to consideration of the possibilities of implementing them. The Secretary-General, who represents both the Ministers and the Assembly, is obviously the right person to act as a channel of information in this way, and the arrangement will often enable the texts presented to the Committee of Ministers to be more carefully prepared and prevent their meeting subsequently with objections on the part of national administrations on purely technical or administrative grounds.

((c) Once it has drawn up its Recommendations, the Committee of Ministers is too apt to take no further interest in the action taken on them by Governments, and, sence no one is responsible for seeing that they are put into effect, these Recommendations become in consequence a dead letter.

LThe Committee considers that the Committee of Ministers ought to authorise the Secretary- General to enquire of each Government what action has been taken on its Recommendations and also that he should be asked to keep the Assembly regularly informed of his action in this direction.

(d) The Assembly has often complained that the Committee of Ministers does not reply in sufficient detail to its Recommendations, and the Committee of Ministers has, in fact, now instructed its representatives on the Joint Committee to reply as fully as possible to the Assembly's Recommendations. But, in order to maintain the highest degree of co-operation between the Committee of Ministers and the Assembly, it might perhaps be useful to apply more faithfully Article 15 of the Rules of Procedure of the Committee of Ministers. This Article lays down that where a Recommendation of the Assembly is only partially acceptable, the Committee shall refer it back to the President of the Assembly for further consideration, at the same time appending Us own comments.

(e) Among the present activities of the Council first place must be given to the work done by the Committees of Experts set up by the Governments to achieve closer European unity in specific fields.

Experience has shown, however, that the work of these Committees of Experts tends to be somewhat ineffective when the Governments have not indicated precisely what is the political objective to be attained.

The Committee therefore considers that the Governments should never call a meeting of a Committee of Experts without first informing them of their objective and of the political principles on which the Governments have agreed in order to achieve this objective.

Thus the Committee's proposals all coincide very closely with the conclusions reached by the Secretary-General on his report on European co-operation.

Now that the six-Power Community has been set up and is becoming more and more active, it is essential that the Council of Europe should regain some of its dynamic force and that its fifteen Member States should make a new effort to bring about a United Europe.

The Secretary-General's proposals for reform are excellent but your Rapporteur cannot regard them as more than a minimum. Even this minimum, however, may be of the greatest value provided that the Members of the Council of Europe show some real intention of co-ordinating their policies and provided that they will make full use of the institutions at their disposal.

Of recent years, the members of the Assembly have too often had the feeling that objections raised now by one country and now by another were paralysing collective action. If this were to continue it would seriously hinder the work of the Council of Europe'. What we must hope for, therefore, is a change of heart on the part of all our Governments, as otherwise we shall see six-Power Europe growing and developing, leaving behind a fifteen-Power Europe in a no more than embryonic state.