Recommendation 2 (1951)[1]

Draft Convention for the Establishment of European Refugees Office

Parliamentary Assembly

The Assembly

Considering that the Committee of Ministers, in complete agreement with the Recommendation 30 of 26th August, 1950, has acknowledged the particularly urgent nature of the refugees problem,

Considering that this problem is closely linked with the more general one of manpower and emigration,

Having taken note of the Draft International Convention drawn up by the Special Committee on Refugees establishing a European Refugees Office,

Approves the aim and general principles of this Draft Convention, appended hereto,

Notes with satisfaction the decision of the Committee of Ministers to instruct the Secretary-General to convene a preliminary meeting of experts in the near future for the study of measures calculated to resolve the problem of refugees and of surplus population,

Requests that the Draft International Convention prepared by the Special Committee on Refugees be submitted to the meeting in question,

Requests furthermore, that the attention of the experts be especially drawn both to articles 1, 2 and 3 of that draft and to the specifically European aspect of the problem under consideration,

Requests also that, bearing in mind the results obtained by various international bodies whose competence extends to questions concerning refugees and manpower, the Committee of Experts should enable the Secretariat-General to lay down a joint European policy on migration, in general, and that of refugees, in particular, prior to the meeting of the General Conference on Migration of the I. L. O. which is to open at Naples in October ;

Requests finally that the Report of the Secretary-General on the proceedings of the meeting of experts be communicated to the Assembly and to the Special Committee on Refugees,

1. This Recommendation was adopted by the Assembly at its Fifteenth Sitting 14th May 1951. (See Doc. 43, Report of the Special Committee on Refugees.)

Appendix APPENDIX

Draft Convention for the creation of a European Office for Refugees

The Member Governments of the Council of Europe.....

ARTICLE I

There shall be set up a European Office for Refugees

Its functions and powers are set out in the provisions below.

ARTICLE II

As used in the present Convention, the term « Refugee » shall be understood to mean any person who, as a result of the political events of the two World Wars, is without established residence of his choice, having left his domicile under duress or under threat of violence owing to his political opinions, religion, nationality or racial origin.

ARTICLE III

The European Office for Refugees shall have the task of assisting, without any distinction or discrimination whatsoever, the re-settlement of European Refugees in accordance with the Universal Declaration on Human Rights of 1948 and of the European Convention on Human Rights of 1950.

For this purpose it shall have powers to ;

a. Ensure the legal and political protection of European Refugees either by making representations to Governments, or by initiating or facilitating the conclusion of agreements with them.

b. To co-operate with United Nations and the High Commissioner for Refugees in order to increase the effectiveness of its work and to prevent duplication.

c. In co-operation with the Governments concerned and if necessary with other international organisations, to establish the main lines of a policy for rehabilitation and full employment of Refugees, with provision for a geographical distribution which would take into account the necessity of avoiding population pressure on the frontiers of certain countries.

d. On the basis of general principles set out in the above paragraph to draw up concrete plans for the rehabilitation and re-settlement of refugees both in Europe and in overseas countries and to assist in implementing such plans.

e. To submit to the Governments concerned suitable plans for financing these schemes in order to achieve the results specified in paragraph (d). (f) To establish permanent liaison with representative Refugees Associations and with organisations for welfare and assistance, whether religious or lay, national or international,

f. To undertake, either within the Secretariat-General of the Council of Europe, or within the framework of the Office itself, all administrative or executive tasks arising out of the activities of the Council or of the Office.

ARTICLE IV

The European Office may also assume any other international tasks entrusted to it by a joint decision of the representatives of the High Contracting Powers in the Consultative Assembly and of their representatives on the Committee of Ministers.

ARTICLE V

The European Office for Refugees shall comprise :

1. An Administrative Council.

2. A Director-General with the staff necessary for the fulfilment of his task.

ARTICLE VI

The Administrative Council shall be composed of seven members appointed by the representatives of the H. C. P. on the Committee of Ministers and of seven other members appointed by the representatives of the H. C. P. in the Consultative Assembly of the Council of Europe. There may only be one member of the nationality of any one H. C. P.

The Director-General shall sit on the Administrative Council in an advisory capacity. Any Government concerned, being a member of the Council of Europe, which has no representative of its nationality with a seat on the Administrative Council, may appoint to the Council a Commissioner, who shall take part in the deliberations of the Council in an advisory capacity.

ARTICLE VII

The mandate of the Administrative Council shall be of one year's duration. Its members shall be eligible for re-election. The composition of the Council shall be renewable in part according to a system to be decided by the representatives of the H. C. P. on the Committee of Ministers and in the Consultative Assembly.

ARTICLE VIII

The Administrative Council shall determine the general policy of the Office, supervise the administration of the Director-General, receive periodic reports from him, approve the administrative budget of the Office and make any recommendations it may consider desirable for the achievement of the aims of the Office.

ARTICLE IX

For the Resolutions of the Administrative Council, on matters other than questions of procedure, a majority of two-thirds of the votes cast shall be required. For decisions on questions of procedure only a simple majority of the votes cast shall be required.

ARTICLE X

The Administrative Council shall draw up its own Rules of Procedure, which shall necessarily include any provision submitted for this purpose by the representatives of the H. C. P. on the Committee of Ministers or in the Consultative Assembly.

ARTICLE XI

The decisions of the representatives of the H. C. P. on the Committee of Ministers and in the Consultative Assembly shall be taken in accordance with the regulations for procedure and voting laid down in their respective Rules of Procedure.

ARTICLE XII

Recommendations of the Administrative Council shall be submitted to the Consultative Assembly. After such debate as may be held in the Assembly the representatives of the H. C. F. in the Assembly shall formulate their observations, which shall be submitted, together with the recommendation of the Administrative Council, to the representatives of the H. C. P. on the Committee of Ministers, who shall implement them to the extent they consider proper after such discussion as may be held within that Committee.

ARTICLE XIII

The Administrative Council shall each year submit reports to the Committee of Ministers and to the Consultative Assembly of the Council of Europe. The Reports of the Director-General shall be appended to them.

ARTICLE XIV

The Director-General shall be appointed by a concurrent decision of the representatives of the H. C. P. in the Consultative Assembly and of their representatives on the Committee of Ministers, on the proposal of the Secretary-General of the Council of Europe. The appointment shall be for five years, and the term of office is renewable.

ARTICLE XV

The Director-General shall prepare the administrative budget of the Office, shall ensure its implementation and shall furnish any administrative assistance requested by the organs of the Council of Europe.

ARTICLE XVI

The Director-General shall represent the European Office in relations with Governments and International Organisations, shall ensure the implementation of the general policy and the particular decisions of the Administrative Council, shall sign administrative contracts on behalf of the Office and shall act in a liaison capacity with the Council of Europe.

ARTICLE XVII

The Director-General together with the staff shall form part of the Secretariat of the Council of Europe. The rules concerning independence, the privileges and immunities and the Administrative Regulations — Staff Rules of the Council of Europe shall be applicable to them as members of its Secretariat.

ARTICLE XVIII

Funds shall be provided by the contributions or grants by Governments, by gifts of private individuals, and by loans. The contributions of the H. C. P. shall be apportioned in accordance with the scheme drawn up by the Secretary-General of the Council of Europe, with the assent of the Governments concerned.

ARTICLE XIX

Gifts shall be accepted by the Director-General with the approval of the Administrative Council of the Office.

ARTICLE XX

Proposals for loans shall be drawn up by the Director-General and shall be submitted, with the observations of the Administrative Council and the recommendation of the representatives of the H. C. P. in the Consultative Assembly, to the representatives of the H. C. P. on the Committee of Ministers. The latter shall authorise the Director-General to sign contracts with the parties concerned.

ARTICLE XXI

The approval of any item of expenditure shall not become final until after a decision has been taken, in accordance with the above provisions, for the acquisition of funds to meet such expenses.

ARTICLE XXII

The Office shall have its seat at Strasbourg. It may be transferred to any other place by decision of the Administrative Council.

ARTICLE XXIII

The Office and the members of the Administrative Council shall enjoy, on the territory of the H. C. P., the immunities and privileges necessary for the exercise of their functions.

ARTICLE XXIV

The Office shall possess the legal personality and the power to contract for, to acquire and to dispose of moveable and immoveable property, to go to law, to borrow or to guarantee loans and to undertake any other executive activity required for the fulfilment of its functions.

ARTICLE XXV

The Office, its goods and possessions, wherever they are situated and whoever is in possession of them, shall enjoy immunity from jurisdiction except insofar as the Administrative Council has expressly waived this right. It cannot, however, be waived with respect to measures of enforcement, unless, in connection with operations of a commercial character, the Administrative Council has waived the privilege by a special decision.

ARTICLE XXVI

The premises and the buildings of the Office are inviolable. Its goods and possessions, wherever they are situated and whoever is in possession of them, shall be exempt from any form of search, requisition, confiscation, expropriation or any other form of administrative or judicial constraint.

ARTICLE XXVII

The archives of the Office and, in general, all documents belonging to it or in its possession shall be inviolable, wherever they may be.

ARTICLE XXVIII

(referring to currency questions.)

ARTICLE XXIX

The Office, its goods, income and other possessions shall be exempt,

a. From all direct or indirect taxes, unless it is simply a question of payment for public utility services ;

b. From all customs dues, import or export prohibitions or restrictions, with regard to articles required for the fulfilment of its tasks or for the accomplishment of work undertaken by it. Articles thus freely imported shall not be sold on the territory of the country into which they have been brought, except under conditions approved by the Government of that country.

ARTICLE XXX

Any litigation between the Office and private individuals, in the matter of fittings, works or the purchase of real estate effected on the Council's behalf, shall be submitted to an Administrative Tribunal, the composition of which shall be determined by a Regulation of the Secretary-General of the Council of Europe and approved by the Committee of Ministers.