Parliamentary Assembly
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COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Doc. 155
23 November 1950

Reform of the Statute

Conclusions[1]
Parliamentary Assembly

1. Recommendation to the Committee of Ministers adopted 23rd November 1950 at the conclusion of the Debate on the Third Report from the Committee on General Affairs

The Assembly,

Considering that its Resolution contained in document N° 124 of 28th August 1950 called for the submission of a plan for the Reform of the Statute, including the suppression of the right of veto within the Committee of Ministers,

Considering that the Committee of Ministers, at its Session of 3rd and 4th November 1950, decided to appoint a Committee of Experts to study possible changes in the Statute and in the general working of the Council of Europe,

1. Urgently requests the Committee of Ministers that the proposed Committee of Experts be replaced by a " Joint Committee " composed of Representatives of the Ministers, or Senior Officials, and of seven Representatives of the Assembly, nominated by the Bureau;

2. Submits to the Committee of Ministers with a view to transmitting to the Joint Committee mentioned above, or alternatively to the Committee of Senior Officials :

a. the Resolution in Appendix I, and

b. the draft protocol in Appendix II, for further consideration and detailed examination;

Instructs a Committee of seven members nominated by the Bureau to examine the texts contained in Appendices 1 and 2, to decide their final form, and to present them before the Joint Committee mentioned above;

Authorises the same Committee to forward immediately to the Governments concerned, for their information, the final texts decided upon, and to take all necessary steps to secure their acceptance ;

3. Renews the previous requests for amendment contained in Recommendations contained in document N ° 74, paras. 7, 5 (ii), 8 (ii) of 18th August 1950 and Doc. 123 of 28th August 1950, or implied by them ;

4. Recommends the following amendments to the Committee of Ministers :

(a) Proposed Amendment to Article 1 :

i. In paragraph (b) of Article 1 after the words " of common action ", add the word " political."

1. See Doc. 148, report.

ii. Delete paragraph (d) of Article 1.

(b) Proposed Amendment to Article 20 :

Replace Paragraphs (a) and (d) of Article 20 by the following :

a. With the exception of the Resolutions enumerated in paras. (b) to (d) below, all Resolutions of the Committee shall be taken by a two-thirds majority of votes cast and by a majority of Representatives entitled to sit on the Committee of Ministers; this shall apply in particular to :

i. Recommendations under Article 15 (b);

ii. Questions under Article 19;

iii. Resolutions relating to the amendments of Articles of the Statute other than those mentioned in para, (d) (iii) below;

iv. Resolutions concerning the adoption of the Budget Rules of Procedure and Financial and Administrative Regulations ;

v. Decision in case of doubt as to which paragraph of this Article applies.

d. Resolutions of the Committee relating to the following questions shall require the unanimous vote of the Representatives casting a vote and of a majority of the Representatives entitled to sit on the Committee :

i. Questions under Article 21 (a) (i) and (b);

ii. Questions under Article 33;

iii. Recommendations concerning amendments to Articles 1 (d), 7, 15, 20 and 22.

(c) Proposed Amendments to Article 21 :

i. In paragraph (b) of Article 21 leave out : " conclusions and " and add, at the end of the paragraph, " in no case, however, may secrecy be required to the voting at the end of such discussions."

ii. Add the following sentence to paragraph (b) of Article 21 : " Eac h Member of the Committee of Ministers shall be entitled to make known his attitude in the Committee in regard to Recommendations from the Assembly."

(d) Proposed Amendment to Article 25 :

Replace the first sentence of the paragraph (a) of Article 25 by the following :

" The Consultative Assembly shall consist of Representatives of each Member elected by its Parliament or appointed in such manner as that Parliament shall decide."

5. Reaffirms its Recommendation contained in Doc. 74, para. 4, of 18th August 1950, and calls upon National Parliaments to use all their influence to have the above-mentioned Recommendation implemented.

Appendix 1

Resolution relating to a protocol amending the Statute of the Council of Europe

The Assembly,

a. Having been asked by the Committee of Ministers in September 1949 to consider any necessary changes in the political structure of Europe to achieve a greater unity between the Members of the Council of Europe and to make an effective European co-operation in the various spheres specified in Article 1 of the Statute;

b. Having unanimously resolved in September 1949 that the aim and goal of the Council of. Europe is the creation of a European authority with limited functions but real powers;

c. Having resolved in August 1950 that the Committee on General Affairs :

i. submit to the next meeting of the Assembly a plan for the reform of the Statute of the Council of Europe relating particularly to the suppression of the right of veto of the Committee of Ministers;

ii. define the kind of European authority which might be endowed with limited functions but real powers.

d. Conscious that any definition of such a European authority must be one which provides something more than co-operation at Government level as it exists in Europe at present and something less than a full supra-national authority;

Resolves :

that the definition of such a European authority be as follows :

i. Functions The functions should include those conferred by Articles 1-4 of the Brussels Treaty and by Articles 1-9 of the 0. E. E. C. Convention on the councils established by those treaties, and the organizations created under the two treaties should be an integral part of the organization of the Council of Europe and responsible to it.

ii. European Authority That the European authority should be a Parliament of two Houses comprising the Committee of Ministers and the Assembly; that the Committee of Ministers should represent the Governments of the Member States and that its decisions should remain unanimous; that the Governments should retain the final say but that a parliamentary authority should be created. Legislation in the form of a Bill would be introduced in the Assembly, and when it had passed the Assembly it would go for approval to the Committee of Ministers.

iii. Legislative Powers The Council of Europe should not be given in advance any executive power to legislate. It should acquire such powers to legislate in respect of its different aims and functions from time to time. Such powers would be conferred on it by individual Bills for each specific matter, when such Bills had passed the Assembly and the Committee of Ministers.' The powers which the Council acquires and the way in which those powers are exercised by it will be set forth in legislation approved in both Houses.

iv. Executive Powers The Council of Europe should have an executive small in numbers responsible to both Houses to take the place of the present large Standing Committee. Such an executive would meet regularly. It would organize the Agenda of the Assembly and prepare its legislation. It would also control all the administrative organizations of the Council of Europe and create departments such as defence, customs and finance, as it may require.

Appendix 2

Draft Protocol for the amendment of the Statute of the Council of Europe

The Assembly of the Council of Europe recommends, and has caused its recommendations to be embodied in this Protocol, that the Statute of the Council of Europe be amended so that the aims and functions of the Council of Europe be enlarged to include all the functions and powers of the Councils created by the Brussels Treaty and the Convention for European Economic Co-operation; so that the organizations established under those treaties be transferred to the Council of Europe; so that executive authority and legislative power be vested in the Council of Europe; and so that the Council of Europe be converted into a European political authority with a Parliament of two Houses and for other purposes connected therewith.

Part 1 - Aims and Functions

ARTICLE I

1. Article 1 of the Statute shall be omitted and the following Article inserted in its place :

i. The aim of the Council of Europe shall be to achieve a greater political and economic unity between its Members for the purpose of safeguarding and realizing the ideals and principles which are their common heritage and facilitating their political, economic and social progress. For this purpose the Council shall formulate and carry into effect a common policy for the defence of the Member States and take steps to bring about the economic integration of the economies of the Member States by securing a common currency and financial system, by abolishing all barriers to trade between the Member States and by securing throughout the whole of the territory of the Member States an area in which the movement of goods, services and peoples shall be quite free.

2. Without in any way limiting the generality of the provisions of the previous sub-paragraph the Council of Europe

i. shall dedicate the economic resources of the Member States and their powers of reconstruction to the common good and to the development of a common civilization based on the best attainable standards of living for all citizens;

ii. shall integrate the industrial and agricultural production of the Member States taken as a whole so as to provide sufficient food, raw materials and manufactures for the internal and external trade of the Member States;

iii. shall use the raw materials, basic industries and essential services of the Member States for the purposes herein set out and in such cases as may be appropriate under public ownership and/or public control, and

iv. shall prevent by such economic and social re-organization as may be necessary in any of the Member States the exploitation for private gain of the labour of any citizen by any other citizen.

3. The Council of Eui'ope shall perform all the functions set out in Articles 1, 2, 3 and 4, of the Treaty of Economic, Social and Cultural Collaboration and Collective Self-Defence, signed at Brussels on the 17th March 1948, as if the whole of such articles were set out in this subparagraph, and the Council shall exercise such functions as if it were the high contracting parties referred to in the different articles, acting both individually and collectively, and the Member States shall comply with all the requirements of the Council of Europe which may be necessary to give effect to this paragraph.

4. The Council of Europe shall in addition perform all the functions set out in Articles 1, 2, 3, 4, 5, 6, 7, 8, and 9 of the Convention for European Economic Co-operation signed at Paris on 16th April 1948, as if the whole of such articles were set out in this sub-paragraph, and the Council shall exercise such functions as if it were the high contracting parties referred to in the different articles, acting both individually and collectively and the Member States shall comply with all the requirements of the Council of Europe which may be necessary to give effect to this paragraph.

5. So soon as the parties to the treaties referred to in sub-paragraphs 3 and 4 above shall agree the Council of Europe shall take over the organizations created under the two treaties and incorporate such organizations as part of the executive and administrative services of the Council of Europe.

Part 2 - European Political Authority

ARTICLE II

1. The political authority of Europe shall be the Council of Europe which shall consist of the Committee of Ministers and the Consultative Assembly which is hereinafter to be called the Legislative Assembly.

2. Each Member of the Council of Europe shall nominate a Minister, Secretary or Under-Secretary of State who, without prejudice to the responsibility of the Minister for Foreign Affairs, should be charged with the supervision of European Affairs. The special task of the holder of this post should be :

i. to co-ordinate the activities of his Government in the field of European co-operation;

ii. to ensure the diffusion of decisions or suggestions made by the various organs of the Council of Europe amongst members of Parliament and the public in the participating countries;

iii. to act, in place of the Minister for Foreign Affairs, as the representative of the Member State to the Committee of Ministers.

3. The representatives of each Member State in the Legislative Assembly shall be elected in the first instance by the Parliament of the Member State until a protocol has been agreed to by the Legislative Assembly and the Committee of Ministers providing for the direct election of members of the Legislative Assembly.

Part 3 - The Legislative Powers

ARTICLE III

All legislative powers herein granted shall be vested in the Council of Europe, which shall consist of the Committee of Ministers and the Legislative Assembly.

ARTICLE IV

The Legislative Assembly shall debate matters within its competence under the Statute and upon any matter within, the aim and scope as defined in Chapter I of the Statute as amended or which is referred to it by the Committee of Ministers or presented by the Executive Council and shall make and present Recommendations to the Committee of Ministers in the form of a Bill.

ARTICLE V

In any Bill presented by the Legislative Assembly to the Committee of Ministers or by the Executive Council to the Legislative Assembly after the title there shall be, written :

" Be it enacted by the Council of Europe, the Committee of Ministers and the Legislative Assembly of the Council, as follows : "

ARTICLE VI

Every Bill so presented shall be placed on the agenda of the Committee, who may, after debate, reject or receive the Bill. A resolution to pass a Bill shall require the unanimous vote of the Representatives casting a vote, and of a majority of the Representatives entitled to sit on the Committee.

ARTICLE VII

Any Bill which has been received by the Committee shall, before it be finally approved by them, be submitted with or without amendment, at a date to be determined by the Committee to each Member Government for its consideration.

The Bill shall after submission to each Member be re-placed on the agenda of the Committee, and shall be debated by them not later than six months after the date of submission to each Member.

Each Member Government shall at the expiry of the six months as aforesaid be deemed to have considered the Bill.

ARTICLE VIII

Any Bill which has been re-placed on the agenda and reconsidered by the Committee, shall, if different from the Bill as first presented to them by the Legislative Assembly, be returned to and placed upon the agenda of the Assembly.

The Legislative Assembly shall, with all due expedition debate and present the Bill with or without amendment or recommendation to the Committee.

ARTICLE IX

The Committee shall then have absolute power to pass the Bill with or without amendment or reject the Bill.

ARTICLE X

Any Bill passed by the Committee shall be signed by each approving Member, sealed by the Great Seal of the Council of Europe, and upon a date so specified in the Bill become law, and thereafter it shall be styled : An Act of the Council of Europe.

ARTICLE XI

It shall be within the competence of the Council of Europe to pass any Act to give effect to any matter within the aim and scope of Chapter I of the Statute as amended. Any Act may vest the sole and exclusive legislative and executive power or authority in the Council, and may enact that any Member shall thereafter have no concurrent legislative or executive power or authority in that matter unless such power and authority be specifically provided for in the Act. Any Act shall state whether the measures or provisions therein contained are to confer exclusive legislative or executive power or authority on the Council of Europe, or are to run concurrent with such laws of a Member as may be held to cover the matter legislated upon.

ARTICLE XII

Any Act of the Council of Europe shall repeal the whole part or parts of any Statute Act or other provision of whatever nature forming part of the law of any Member if such law were opposed to or were in conflict with any Act of the Council of Europe.

ARTICLE XIII

Any Act of the Council of Europe shall, upon the date specified in the Act, become in its entirety part of the law of each and every Member and shall have legal and binding effect upon the Members and upon all their subjects or other persons over whom they have jurisdiction or sway.

ARTICLE XIV

The Assembly shall meet in ordinary session at least twice a year, the dates of which shall be determined by the Assembly and shall avoid as far as possible overlapping with parliamentary sessions of Members and with sessions of the General Assembly of the United Nations.

Part 4 - The Executive

ARTICLE XV

The Legislative Assembly shall dissolve the Standing Committee of the Assembly, and shall elect an Executive Council. The Executive Authority shall be vested in the Executive Council which shall be responsible to the Legislative Assembly and Committee of Ministers.

ARTICLE XVI

The Executive Council shall consist of Councillors and each Councillor shall be assigned to and shall become the head of a Department, namely :

a. Finance;

b. Customs and Excise;

c. Defence;

d. Internal and External Trade;

e. Industry;

f. Agriculture and Food;

g. Labour and Social Services;

h. Transport;

i. Culture;

j. Legal Questions.

The Legislative Assembly may increase or decrease the number of Departments and Councillors accordingly, but the Executive Council shall not exceed 15. The expenses of the Executive Council, the Councillors arid their departments shall be a common expense within the meaning of Article 38 of the Statute. The first Executive Council shall be nominated by the president of the Assembly and shall be confirmed by the Assembly and the Committee of Ministers.

ARTICLE XVII

Each Councillor shall be a member of the Legislative Assembly and shall be responsible for the creation and supervision of his Department and shall be responsible to give effect to any Act of the Council of Europe.

ARTICLE XVIII

Any Councillor shall have the right to present any measure in the form of a Bill to the Legislative Assembly the provisions of which shall have relation to the scope and sphere of his Department, and he shall do all such other things which lie within his power which are incidental or conducive to the attainment of the aims of Chapter I of the Statute as amended.

ARTICLE XIX

1. Each Councillor of the Executive Council shall take the oath in the manner and in the form as that of the Secretary-General as specified in Article 36 (e) of the Statute.

2. No Councillor shall hold any salaried office from any Government or of any national legislature or engage in any occupation incompatible with his duties.

3. Each Councillor shall have the power to appoint the officials of his Department, but if the appointments relate to the creation of a new Department he shall consult the Secretary-General as to the number of officials and staff which is to form the establishment of the new Department, and such establishment shall be approved by the Legislative Assembly and Committee of Ministers.

4. Any Councillor shall be entitled to attend any meeting of the Committee of Ministers, unless the Committee direct otherwise, and shall attend if requested to do so by the Committee.

Part 5 - General

ARTICLE XX

Article 7 o f the Statute shall be expunged. A Member desiring to withdraw its membership from the Council of Europe shall submit to the Committee of Ministers a proposal to amend the Statute to give effect to such withdrawal in the form of a Protocol. The Protocol shall come into force when it has been signed and ratified on behalf of a majority of the representatives entitled to sit on the Committee. Such withdrawal will take effect at the end of the financial year in which the Protocol has been approved.

ARTICLE XXI

The Committee of Ministers shall cause an official report to be printed and published of all debates and resolutions of the Committee and Assembly save that the Committee shall determine what information shall be published regarding the conclusions and discussions of a private meeting of the Committee.

ARTICLE XXII

1. That, within the framework of the Council of Europe, specialized authorities should be instituted which would be competent, respectively, in the political, economic, social, legal and cultural fields;

2. Although the existence of the Council of Europe essentially depends upon the presence within its organization of all the democratic Nations of Europe, each of them shall nevertheless be free to accede to the specialised authorities or to one or several of them ;

3. These specialised authorities which it is thus intended to create and to maintain, within the framework of the Council of Europe, shall remain open to any Member State which may subsequently wish to accede to them. Their organs of administration and control should be integrated with those of the Council of Europe;

4. Those States which desire from the outset to form closer organic links shall be free to establish them between themselves. The form these links should assume will be settled by them after discussions in which all Member States of the Council of Europe shall take part. The organs of administration and control shall be instituted according to the methods set forth at the end of paragraph 3. The same opportunities as above for the subsequent accession of other Member States shall be maintained.

ARTICLE XXIII

5. By special Conventions concluded between the Member States or between some of them, powers not provided for by the Statute of the Council may be conferred both on special Committees of the Committee of Ministers and on Committees of the Consultative Assembly, composed of Representatives of the States which are signatories of these special Conventions, without thereby binding either the States which are not signatories of these Conventions or their Representatives in the Consultative Assembly.

6. The special Committees of the Committee of Ministers and the Committees of the Consultative Assembly indicated above shall regularly submit reports on their activities together with the necessary documentation, the aforesaid Committees to the Committee of Ministers, the Committees to the Consultative Assembly.

7. The Secretariat-General of the Council of Europe may be called upon, by the special Conventions mentioned above, to render assistance to new organs established between the Member States, or between some of them. Any additional expenses of the Secretariat General which might result from these new duties shall be borne by the Council of Europe, on condition that at least two-thirds of the Member States are parties to the said Conventions. When less than two-thirds of the Member States of the Council are parties to the said Conventions, the possible additional expenses of the Secretariat shall be borne by the signatory States under conditions fixed by the Convention.

ARTICLE XXIV

Leave out Article 23 and insert the following new Article :

The Consultative Assembly may discuss and make Recommendations upon any matter within the aim and scope of the Council of Europe as defined in Chapter I; it shall discuss and may make Recommendations upon any matter referred to it by the Committee of Ministers with a request for its opinion.

ARTICLE XXV

In Article 4, after " may ", insert : " with the approval of the Consultative Assembly, such approval to be by a simple majority".

ARTICLE XXVI

In Article 5, after " may insert : " with the approval of the Consultative Assembly, such approval to be by a simple majority."

ARTICLE XXVII

The Statute is amended by the provisions of this Protocol and if any part of the Statute is in conflict with any part of this Protocol, the Protocol shall prevail and the part of the Statute to the extent of the conflict is hereby repealed.

ARTICLE XXVIII

Where the Statute of the Council of Europe is amended by the clauses of this Protocol in order that the provisions in this Protocol shall have full effect over the provisions of the Statute all consequential alterations that are necessary to give effect to the clauses of this Protocol shall be deemed to have been incorporated in this Protocol, and the provisions of the Statute shall to the extent of such consequential alterations so be deemed to be repealed.