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Memorandum by the Secretariat-General concerning the principles which should govern relations between the Council of Europe and Non-Governmental Organisations

Request for an opinion
Committee of Ministers

COUNCIL OF EUROPE

The Secretary-General

Strasbourg, 11th May, 1953

Monsieur le Président,

The Committee of Ministers has instructed me to state that it considers it advisable for the Council of Europe to lay down the principles which should govern such relations as it may prove desirable to establish between the Council and non-governmental organisations. Before taking a decision in this matter, the Committee wishes to know the opinion of the Consultative Assembly. It has instructed me to transmit to you a Memorandum prepared by the Secretariat-General on the subject of relations with the above-mentioned organisations. This Memorandum, a copy of which is appended hereto, might provide a basis for discussion of the question by the Assembly (cf. § 82 of the Fourth Report of t h e Committee of Ministers, Doc. 122

I have the honour to be, Monsieur le Président, with great truth,

Your obedient Servant,

Signed : A. H. LINCOLN

Deputy Secretary-General

The President of the Consultative Assembly of the Council of Europe.

STRASBOURG

MEMORANDUM

by the Secretariat-General concerning the principles which ?should govern relations between the Counci of Europe and non governmental organisations

I. Introduction

During the last few months the Secre tariat-General has been approached by several non-governmental international organisations desirous of establishing official relations with the Council of Europe. In addition to the two Trade Union federations, to which the Committee of Ministers and the Consultative Assembly have decided to grant consultative status, requests have been received from the following:

a. European Confederation of Agriculture : 3, quai de Paris, Strasbourg.

b. International Federation of Agricultural Producers : 1, rue d'Hauteville, Paris, 10e .

c. International Confederation of Executive Staffs : 30, rue de Gramont, Paris, 2 e .

d. International Institute of t h e Middle Classes : 19, avenue de la Toison-d'Or, Brussels

e. Agudas Israel, World Organisation of Orthodox Jews; European Branch : 257, Seven Sisters Road, London, N. 4.

These organisations vary in composition, scope, powers and objectives. Each request should therefore be examined in detail and on its merits and, a separate decision taken in each case.

The Secretariat-General considers; however, t h a t the examination of both present and future applications and the decisions on t h em would be facilitated if the Council of Europe were to draw up in advance certain general rules applicable to all relations with non-governmental organisations. This would make it possible t o classify organisations into various categories, each of which would call for a different type of " consultative status ".

In the view of the Secretariat-General, this procedure would have two advantages. It would avoid the necessity for a large number of individual and multifarious agreements, whose practical application would entail serious difficulties, and it would offer a solid basis for negotiation with applicant organisations by making it possible to bring into proper perspective the request of bodies whose importance and interest for the Council of Europe will vary considerably.

2 . General Principles

(a) It should be noted t h a t general rules of t h e kind mentioned above have for similar reasons been adopted by other inter-governmental organisations. It is not possible here to give a complete account of such precedents.

Although these precedents can be of great help, it is clear that none of them is entirely applicable to the Council of Europe. The Secretariat-General has already had occasion (See 4th Session 1952 : Doc.43, request for an opinion on a grant of a consultative status to certain organisations) to give its views on this matter.

First, the Council of Europe is, above all, a political organisation embodying the cause of European solidarity. Thus it has perhaps more need than many other organisations of the support and understanding of public opinion, but less need than certain specialised institutions of technical adA'ice. Among existing non-governmental organisations there are no widely representative bodies whose aims and scope are as extensive as those of the Council. Thus the somewhat restrictive principles and methods followed, for example, by 0 . E. E. C. would perhaps scarcely be suitable for the Council of Europe. The profit, which the Council might derive from relations- with non-governmental international organisations would probably depend more on their ability to inform and influence important sectors of opinion than on their technical qualifications.

Secondly, the Statute of the Council of Europe expressly assigns a consultative function to an Assembly selected from the participating countries. It is imperative that there should be no encroachment on this function of the Assembly, which would imply that the facilities for consultation granted to outside organisations should be appreciably less extensive than those enjoyed by the Assembly. Thus no non-governmental organisation should be considered an " obligatory consultant " of the Committee of Ministers or of its Committees of governmental experts.

This requirement would be met if the outside organisations were to act principally as consultants of the Assembly itself, through the intermediary of its Committees. It will be necessary to determine what form such relations, for which no precedent can be found in any other inter-governmental institution, should take.

(b) On the basis of these general considerations and with due regard to existing precedents, the Secretary-General considers that applications for " consultative status " or " official relations " made to the Council of Europe b y non-governmental international organisations should be considered with the following points in mind :

a. The aims and principles of the organisation should be compatible with those of the Council.

b. The scope of the organisation should correspond to a greater or lesser degree with t h a t of the Council.

c. The organisation should be representative in the field of its competence. The Council should endeavour to work with the most representative organisations. If in a given field there exist several important organisations, the Council might t r y to induce them to set up a joint liaisonbody (without, however, making t h a t a necessary condition).

d. The organisation should be interested in European questions and must be in a position to assist in spreading knowledge of the objects and work of the Council among large sectors of public opinion so as to give the Council effective support. It would be logical t h a t organisations with a European framework should receive some kind of preferential treatment.

e. The organisations shall have an established headquarters with an executive officer. It shall have a conference, convention or other policy-making body. The organisation shall have authority to speak for its members through its authorised representatives. Evidence of this authority shall be presented if required.

The applicant organisation would submit certain documentary material, including its statute or charter, information on the composition of its bureau, details of affiliated national organisations, general information (reports or official publications) on its recent activities, and a statement to the effect that the organisation accepts the principles laid down in the Preamble and Article 1 of the Statute of the Council of Europe.

(c) The documents, supplemented by such information as the Secretariat-General may think fit to add, would be submitted, in the first place to the Committee of Ministers or their Deputies, who would have the task of investigating applications in t h e light of t h e principles defined above. The Ministers, or their Deputies, would have to decide whether the applicant organisation satisfactorily fulfilled the conditions necessary for the establishment of official relations with the Council.

If they gave a favourable decision, the relevant documents would then be transmitted to the Consultative Assembly for its opinion, with a recommendation indicating the category in which the organisations in question should be classified. If their decision was unfavourable, the Consultative Assembly would be notified accordingly and given the reasons for the decision.

In accordance with the text of a Statutory character concerning " relations with intergovernmental organisations and non-governmental international organisations " adopted in May, 1951, it is for the Committee of Ministers to take the final decision on the grant of official consultative status. In any case of dispute between the Committee of Ministers, and the Consultative Assembly on t h e grant of consultative status or on the category of consultative status to be granted, the matter should be referred to the Joint Committee before any final decision is.taken.

When the above procedure had been carried out, the Agreements concluded with the organisations?other than simple entry in the register?would have to be confirmed by the Secretary-General through an exchange of letters. At a later stage, t h e Committee of Ministers, or their Deputies, could, in conjunction with the Consultative Assembly, make a periodic revision of the lists.

(d) With regard to the facilities to be granted to non-governmental organisations requesting " consultative status ", the Secretariat- General proposes t h a t such organisations be divided into three separate categories :

Category A would comprise organisations which completely fulfil all conditions mentioned above. They should in particular :

a. Have a wide field of activity coinciding with at least an important branch of the work of the Council of Europe;

b. Represent a broad section of the community : by this is meant that the international organisations in question should be recognised as important in their particular field and reflect the views of large sections of public opinion, either directly or through corresponding national organisations;

c. Are in a special position to adopt a European view of problems within their competence or to undertake research upon them stressing the purely European aspects of such problems[1]

Category A organisations would thus be accorded most-favoured treatment, but the Secretariat-General considers that they should be severely restricted in number, to avoid overloading of the proceedings of Committees of experts and Assembly Committees.

Category B : This category would comprise organisations whose field of activity coincides with an important branch of the work of t h e Council of Europe and which could make a useful contribution, by their advice and active support to promoting the objectives of the Council of Europe.

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1. For instance, non-governmenta international organisations whose scope is confined to Europe, European branches of more comprehensive organisations, or joint European organisations representing several others.

Category C : Applications might be received from organisations which do no appear to have any immediate value for the Council, either because of their narrow field of activity, or because they are particularly concerned with extra-European affairs, or, again, because of their limited potentialities. In many cases, however, it may be considered inadvisable to refuse their offer outright, for they might occasionally be asked to provide support or technical advice in connection with an activity of the Council which coincides with their own field of influence.

Category C organisations would be entered by the Secretary-General in a separate register.

3 . Various forms of "Consultative Status"

The nature and extent of the consultative facilities which the Committee of Ministers, t h e Consultative Assembly and the Secretariat- General could offer to non-governmental organisations should, in most cases, automatically be determined, in the view of the Secretariat- General by the category in which they are placed. Details of such facilities are given below :

(a) Committee of Ministers

As explained above and for reasons already given, no non-governmental organisation can consider itself or be considered by the Council as an " obligatory consultant " of the Committee of Ministers or its subsidiary organs (in particular, its Committees of experts). The consultative relations between the Committee of Ministers (and expert Committees) and such organisations are essentially optional in character.

Moreover, as meetings of the Committee of Ministers and of expert Committees, are held in private, unless the Committee decides otherwise (Article 21 of the Statute of the Council of Europe and Rule 8 of the Rules of Procedure for Committees of Governmental Experts), relations with the non-governmental organisations must necessarily be limited.

As, moreover, the terms of reference of the Committees of experts are established by the Ministers, non-governmental organisations have no power to request the inclusion of any item, in their agenda.

Those fundamental reservations considerably restrict the scope of consultation which may be offered to the organisations. Nevertheless, some distinctions should be drawn between Categories A and B. The following facilities are therefore suggested for these two categories :

Category A

(i) The organisations in question may, with the approval of the committees of experts, concerned receive the Agenda of meetings of the latter together with any non-confidential working papers.

(ii) They may, if they so desire, address written observations of not more than 1,000 words to the Secretary-General on any question included in the Agenda of a committee of experts.

(iii) They may be consulted by committees of experts on a particular item in the Agenda, in which case t h e written replies to the Secretary-General shall not be restricted in length.

(iv) Committees of experts may decide by a unanimous vote to hear the views of representatives of non-governmental organisations. Such hearings would take place at special ad hoc meetings.

(v) The organisations may receive any documents concerning particular aspects of the work of the Committee of Ministers that the latter may decide to send them on the recommendation of t h e committees of experts.

(vi) They are entitled to receive any documents concerning questions within their competence which the Committee of Ministers may decide to make public, or any publications concerning the work of the Council of Europe which are issued of the responsibility of the Committee of Ministers.

Category D

Non-governmental organisations falling with in this category should be given all the facilities granted to Category A organisations with the exception of the privileges set out at paragraph 4 above.

Category C

Though these organisations have, in principle, no permanent official relations with the Committee of Ministers, they may, nevertheless, be consulted by the Secretary-General on particular questions, at the request of a Committee of experts, in which case, they will, with the approval of that Committee, receive any relevant non-confidential documentary material.

(b) Consultative Assembly

As previously stated, consultative relations between the Council of Europe and the non-governmental international organisations should, above all, be organised under the aegis of the Assembly, whose members arc representatives of their national parliaments, and the status of which is consultative. It would seem right to safeguard the characteristics and fundamental prerogatives of the Assembly, by ruling that representatives of non-governmental organisations shall in no case be allowed to speak during Sittings of the Assembly itself. Consultations should be held in committee, and only by decision of the Committee concerned. The Secretary-General will, as occasion demands, arrange the liaison between each non-governmental organisation and the Committee or Committees concerned with its particular fields of activity.

This being so, the following relations might be established :

Categories A, B and C

(i) The organisations might send observers to the public Sittings of the Assembly, but they would have no right to speak. This would simply mean, in practice, t h a t the Secretary- General would reserve seats for these observers in the Galleries of the Assembly Hall.

(ii) A preliminary list of questions to be included in the Agenda (Article 14 of the Rules of Procedure for the Assembly) would be sent to Category A and B organisations. The Secretary-General could be given the option

of sending this list to any Category C organisations which might, in his opinion, be interested in certain debates envisaged.

(iii) All three categories of organisation would receive from the Secretary-General nonconfidential documents concerning the work of the Assembly which might be of interest to them.

(iv) All three categories of organisation might at any given moment be consulted by an Assembly Committee on any item in its Agenda. In this case, even Category C organisations might be invited by the Chairman of the Committee concerned to make a brief statement of their views at its meetings.

Categories A and B

(i) Category A and B organisations would be given the right to transmit to the Assembly reports or memoranda on questions within their competence which are included in the Agenda. Such communications, restricted to 1,000 words, would be addressed to the Secretary- General, who would include them in the working papers of the Committee concerned.

(ii) The Assembly Committees which, as above, received the written observations of an organisation, might either declare themselves satisfied with this information or decide to receive explanations by word of mouth from representatives of this organisation.

(iii) The organisations in both categories would receive from the Secretariat-General the preliminary list of questions to be placed on the Agenda of the Assembly, the Reports submitted to the Assembly on problems coming within their own province, the Official Reports of public Sittings, and such other nonconfidential material as the Secretary-General might deem it useful to forward.

Category A

Organisations in Category A might consult the Secretary-General on the inclusion of a new question in t h e Agenda of t h e Assembly. The Secretary-General would ascertain whether the question had already been or was to be debated by the Assembly. If not, he would assist the organisations with a view to obtaining the implementation of the procedure provided for under Rule 15 of the Rules of Procedure of the Consultative Assembly. Should the proposal of a non-governmental organisation for t h e inclusion of a question in t h e Agenda be accepted, the representative of this organisation could request a hearing by the appropriate Committee.

Thus the distinctions which the Secretariat- General suggests establishing between three categories of organisations apply chiefly to the relations of these with the Assembly. The purpose of these distinctions is to prevent such organisations, in the not improbable eventuality of more and more of them expresssing a desire to enter into official relations with the Council of Europe, from unduly intervening in the workings of the Council and its Assembly, which must not be allowed to become a public debating forum or to be overburdened with

proposals of all kinds. Thus only organisations in the first category which, let us repeat, should be very restricted, would offered certain facilities for requesting the inclusion of a question in the Agenda of the Assembly.

(c) Secretariat- General

So far as the role of the Secretariat- General in relations between the Council of Europe and non-governemental international organisations is concerned, this follows naturally from the rules adopted with regard to relations with the Committee of Ministers and the Assembly. Its main function is one of liaison.

(i) The Secretariat-General would transmit the appropriate documents (Agenda, Official Reports, documents of a public character, etc.), to the organisations of the various categories in accordance with the procedure already laid down with regard to the Committee of Ministers and the Consultative Assembly. In particular it would be for the Secretary-General to judge of the advisability of transmitting to the organisations such non-confidential documents as would be likely to interest them.

(ii) The Secretary-General would receive written observations from the organisations on items on the Agenda both of committees of governmental experts and the Assembly. These observations should be sent in time to enable him, if he should think fit, to discuss them with the organisations concerned before forwarding them to the appropriate organ of the Council.

(iii) The Secretariat-General would be responsible for forwarding to the organisations all requests for written or verbal consultation emanating from "the various organs of the Council of Europe.

(iv) The Secretary-General shall examine, in accordance with the procedure mentioned above, all requests for information submitted by the organisations of Category A concerning the inclusion of questions in the Agenda of the Assembly.

(v) The Secretary-General is authorised to consult t h e competent non-governmental organisations, either separately or collectively, in order to obtain information to help him prepare studies for submission to the Committee of Ministers.

(vi) He would receive the documents and Reports which the organisations undertake to furnish to the Council of Europe and arrange for their distribution.

(d) Non-governmental organisations

The organisations would themselves, in return for the facilities granted to them, also be required to undertake certain commitments.

(i) They must express their approval of the texts and principles of the Council of Europe, as set forth in the Preamble and Article 1 of the Statute. A statement to this effect should be included in the file of documents submitted by the Secretary-General to the Committee of Ministers or their Deputies. This stipulation applies to the organisations of all three categories.

(ii) They would undertake to give, particularly in their own publications, the maximum publicity to actions or achievements of the Council of Europe in their own particular fields.

(iii) The organisations of Categories A and B would consider inviting the Secretariat- General to send observers to their conferences or congresses.

(iv) The organisations in Categories A and B would furnish the Secretariat-General with all information on their activities likely to interest the Council of Europe, and sent it copies of their periodical publications.

(v) Clauses 3 and 4 would bo optional so far as organisations in category C are concerned.

4 . Conclusion

In presenting the foregoing proposals in some detail, the Secretariat-General in no way intends to confine the freedom of judgconsultations ment and powers of decision of the Committee of Ministers and the Consultative Assembly within a rigidly prescribed framework. Rather has it constantly been concerned with the safeguard of their freedom at every stage of the procedures proposed. These rules have been conceived as constituting a coherent but flexible whole, capable of very wide interpretation. The Secretariat-General feels that they should represent more a kind of internal directive for the solution of this type of problem which will, in the future, more and more frequently arise rather than " regulations " in the true sense of the term for which the Council of Europe can be held accountable and which seek rigidly to define all the reciprocal obligations of the

Council and non-governmental organisations. Each agreement concluded with an organisation of this type should be confirmed by an exchange of letters, approved (except for agreements in category C) by the Committee of Ministers and ratified by the deliberating body of the organisation concerned.