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Poland's application for membership of the Council of Europe

Committee Opinion[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Ms Marcelle LENTZ-CORNETTE, Luxembourg

1. At its meeting on 10 September 1990 in Warsaw, the Political Affairs Committee heard the Presidents of the Diet and the Senate, together with the Polish Prime Minister and the Minister for Foreign Affairs. The Political Affairs Committee subsequently considered the report by Sir Geoffrey Finsberg, Rapporteur, on Poland's request to accede to the Council of Europe and adopted a draft opinion suggesting that the Assembly recommend that the Committee of Ministers, at its next meeting, should invite the Republic of Poland to become a member of the Council of Europe immediately after the holding of free general elections in the country (See Doc. 6289). The Political Affairs Committee further proposed that this opinion should be discussed and put to the vote in the Assembly at its autumn 1990 part-session. However, the debate on Poland was scheduled for a later date and it was therefore necessary to place this question on the order of business under urgent procedure.

2. The Committee on Legal Affairs and Human Rights for its part considered the Political Affairs Committee's report at its meeting on 13 September 1990 in Budapest.

3. In order to become and remain a member of the Council of Europe, a country must, firstly, uphold human rights and the rule of law and. secondly, be a parliamentary democracy.

4. As to the first requirement, observance of human rights and the rule of law, the Committee on Legal Affairs and Human Rights has not yet had the time or opportunity to form an adequate idea of the situation in Poland. Where the other applicant countries are concerned, the committee has sent its Rapporteur to the scene and or held a meeting in the country or intends to do so shortly. In my capacity as Rapporteur, I attended the Political Affaire Committee's meeting and took part in highly interesting discussions with the Polish dignitaries mentioned above, but neither the committee nor myself were able to engage in the detailed exchanges of views which we had in Budapest during the visit by the Rapporteurs last spring and on the occasion of the Committee on Legal Affairs and Human Rights meeting from 12 to 14 September, at which a large number of questions were reviewed, such as the operation of justice, the independence of courts, freedom of the press and protection of human rights. Sir Geoffrey Finsberg's report says very little about human rights and nothing at all about such matters as whether Poland can accede to the European Convention on Human Rights. Consequently, the Committee on Legal Affairs and Human Rights is not in a position to make a fully informed appraisal of the state of law and the human rights situation in Poland.

5. As to the second requirement, parliamentary democracy, Poland clearly does not yet fulfil the conditions for membership of the Council of Europe. There have of course been free elections for the Senate and local authorities, but the membership of the chief parliamentary body, the Diet, is still 65% designated by the former government. However, the Diet has come out in favour of dissolving the two chambers of parliament before the end of the first quarter 1991. A resolution to this effect was adopted on 21 September by a very substantial majority. However, there is no electoral law as yet and many questions remain open, for instance will voting be proportional or according to a majority system?

1. See Doc. 6289.

6. The parliamentary elections will be preceded by presidential elections in December. They will also be held by universal suffrage. Mr Jaruzelski has said he is prepared to relinquish his functions, but considerable controversy has grown up within the Diet regarding the conditions of his resignation, particularly as to whether he should resign without further ado or whether he would be entitled to hand over power to a democratically elected successor. The president is normally elected for six years. Will the French or the German model be chosen as regards the powers of the future president? For the time being, the only candidate in the running is Mr Lech Walesa. The Prime Minister, Mr Tadeusz Mazowiecki, is also expected to stand. The Constitution needs to be amended. Will the new Constitution be passed by referendum or by a vote in the two chambers of parliament? Next comes the problem of the political parties: the situation is far from clear, there being a hundred or so mainly tiny parties. There is some degree of consensus in Poland on many of these problems. Other countries (Hungary and the German Democratic Republic) have shown that questions of this kind can be quickly cleared up, even though the proposed timetable seems highly optimistic.

7. For the foregoing reasons, the Committee on Legal Affairs and Human Rights considered the debate on Poland's admission untimely. It considers that the text of the Political Affairs Committee lacks conviction in that it asks the Committee of Ministers to decide instead of leaving it to the Assembly to ensure that free parliamentary elections are held in the proper manner. In fact, it is very well known that our Assembly is far better equipped than the Committee of Ministers to send a delegation of independent observers to follow the elections.

8. However, as the Assembly decided on 26 September to hold a debate under urgent procedure, the Committee on Legal Affairs and Human Rights concludes that the Assembly wishes not only to discuss but also to decide on Poland's request to join the Council of Europe at the present part-session.

9. In order to make this possible and render the draft opinion formulated by the Political Affairs Committee acceptable to a larger number of Assembly members, the Committee on Legal Affairs and Human Rights decided to approve three amendments and two sub-amendments which were proposed to it by the chairmen of the three committees concerned.

Reporting committee: Political Affairs Committee.

Committee for opinion: Committee on Legal Affairs and Human Rights.

Reference to committee: Reference No. 1667of 21 March 1990.

Opinion approved by the committee on 28 September 1990.

See 16th Sitting, 2 October 1990; and Opinion No. 154.