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Procedure for the appointment of senior officials of the Secretariat of the Council of Europe

Report

Bureau of the Assembly

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1.

The method of appointment and the terms of service of the three senior officials of the Secretariat of the Council of Europe have been under discussion between the Committee of Ministers and the Bureau of the Assembly since the adoption of Recommendation 49 by the Assembly three years ago. The subject has also been debated in the Assembly itself from time to time, and as a result of a suggestion put forward in the Assembly during one of these debates a Joint Working Party of the Bureau of the Assembly and the Deputies of the Committee of Ministers was set up in July 1955. Agreement has now been reached between the two sides of this Working Party on a number of points, but two of the most important are still outstanding, namely

(1) the right to present candidates

(2) the term of office.

The Bureau of the Assembly now wishes to report to the Assembly on the progress of the work of the Joint Working Party.

2. Historical

The background of the problem can be briefly summarised.

Eight appointments have been made to these three positions since the Council of Europe was set up in 1949, namely

Two Secretary-Generals,

Three Deputy Secretary-Generals, and

Three Clerks of the Assembly holding the rank of Deputy Secretary-General.

The dates and other details of these positions are given in the Appendix to this report.

Article 36 (b) of the Statute of the Council of Europe lays down that :

" The Secretary-General and Deputy Secretary-General shall be appointed by the Consultative Assembly on the recommendation of the Committee of Ministers ".

At the first session of the Assembly in August 1949 the Committee of Ministers recommended the appointment of M. Paris as Secretary-General and Mr. Halford as Deputy Secretary-General. No. alternative names were suggested and the recommendation was adopted by the Assembly.



Later in the same session the Assembly recommended to the Ministers t h a t the Statute should provide for the appointment of an additional Deputy Secretary-General responsible to the Assembly and its Bureau. At the second session of the Assembly in August 1950 the Committee of Ministers, pending the amendment of the relevant Article of the Statute, informed the Assembly that it could appoint

" on the recommendation of the Ministers a Chief of Administrative Services of the Assembly holding the rank of Deputy Secretary- General and acting under the Secretary-General's authority ".

This appointment was made three days later, the Ministers having proposed a single candidate, as in the case of the two other offices in the previous year.

The practice of sending a single name to the Assembly was repeated when the first Deputy-Secretary-General was replaced in May 1952 and again after the death of the first Secretary-General in the summer of 1953.

Following this last appointment, however, the Assembly, some of whose members had repeatedly urged that it should be given a real opportunity to express its opinion by being given a choice of candidates, adopted Recommendation 49 which proposed that :

1. The Secretariat should be international in character.
2. There should be consultation between the Assembly and the Committee of Ministers in the Joint Committee before candidatures for the three senior posts were put before the Assembly.
3. No appointment in the Secretariat should be considered as the prerogative of any Member State.
4. In filling vacancies, account should be taken of the qualifications and experience of existing staff insofar as this was compatible with the need to recruit fresh talent and with an equitable geographical distribution of posts.

During the discussions on this Recommendation the attitude of the Assembly was reinforced when it became known that the post of Clerk (a post in which the Assembly was particularly concerned) was likely soon to be vacated.

Recommendation 49 was accepted by the Ministers and its decision communicated to the Assembly in January 1954. During t h a t winter, however, frequent exchanges of view took place as to the method of nomination and whether it should apply to t h e vacancy then pending. The Ministers accepted the view t h a t the name of more than one candidate should be submitted by them; but at first three Italian candidates were proposed by the Ministers. The Standing Committee, however, continued to insist that some members of the existing staff of the Council should be included among the candidates, and when the Assembly met in May t h e list submitted to t h e Assembly included three names of different nationalities one of whom was an existing member of the Secretariat. On 24th May 1954, M. Struycken was elected from this list.

The next year the post of Deputy Secretary-General became vacant for the second time. In discussion at the Joint Committee i t was disclosed that the Ministers had considered and had intended to put forward the names of four candidates, all existing members of the Secretariat; but when it became known t h a t the Ministers had the intention of expressing a preference for one of the candidates, the other three candidates withdrew. The Assembly approved the Ministers' nomination, but the Bureau wrote to the Committee of Ministers to insist " that the Assembly should have full freedom of choice in making the appointments for which it is statutorily responsible ".

The eighth and last appointment was made in April of this year, the Assembly voting on a list containing two names on which the Committee of Ministers did not express a preference. The Bureau interviewed the candidates, but the Assembly decided not to ask for the Bureau's opinion.

3. The Working Party negotiations

Meanwhile the Joint Working Party set up last year has discussed new draft regulations for making these appointments. It is not necessary to report these debates in detail; but the following seven clauses could be accepted by both sides if the differences of opinion recorded under certain heads can be reconciled.

3.1. 1. Submission of candidatures - Clause proposed by the Bureau of the Assembly

(a) When a vacancy occurs in any of the three senior posts of t h e Secretariat-General, nominations may be made :

by one or more Member Governments,

by members of the Secretariat-General,

by groups of not less than five or more than ten Members of the Assembly.

(b) Member Governments and Assembly Representatives shall transmit their proposals to the Secretary-General who shall forward them to the Committee of Ministers. Members of the Secretariat-General shall submit their applications to the Secretary-General who shall forward them, if he considers appropriate, to the Committee of Ministers with any observations he may wish to make.

Clause proposed by the Committee of Ministers

(a) When a vacancy occurs in any of the three senior posts of t h e Secretariat-General, appointments to which are made by the Consultative Assembly on the recommendation of the Committee of Ministers, candidates may be proposed to the Committee of Ministers by :

one or more Member Governments,

the Secretary-General, in respect of the posts of Deputy Secretary-General and Clerk of the Assembly.

Moreover, when the post of Clerk of the Consult a t i v e Assembly falls vacant, proposals may be submitted to the Committee of Ministers by one or more groups of Representatives to the Consultative Assembly : they should bear not less than five and not more than ten signatures.

The Secretary-General may only propose candidates who are already permanent or temporary members of the Secretariat-General.

Candidates from the Secretariat-General may also be sponsored by one or more Member Governments, provided that, in t h e case of the Deputy Secretary-General or Clerk of the Consultative Assembly, the Secretary-General has been previously consulted and has given his assent.

(b) Member Governments and Assembly Representatives shall send their proposals to the Secretary-General who will forward them, together with his own, to the Committee of Ministers.

It has not yet been possible to reconcile the points of view of the Assembly and the Committee of Ministers on this first point. The Bureau wished the Assembly to have the right to put forward candidates for the three senior posts i. e. Secretary-General, Deputy Secretary-General and Clerk. The Committee of Ministers conceded this right in the case of the two other posts.

At the last meeting of t h e Joint Working Party on 1st October 1956, the Assembly Representatives urged certain political considerations which were a t the root of the Assembly's desire that Representatives should have the right to put up candidates for the post of Secretary- General. It was explained that the Assembly, as a political organ, felt that the Secretary- General was the servant of both organs of the Council of Europe and should not only be an able administrator but should also possess a political sense.

The Committee of Ministers in reply has pointed to the fact that, according to Article 36 (b) of the Statute, the appointments already rest with the Assembly. They feared that nominations backed by Assembly Representatives would be favoured by the Assembly as a whole. In other words, t h e election would be prejudged and the balance between the Committee of Ministers and the Assembly disturbed.

It should be added that the Assembly Representatives took this argument into consideration in proposing that nominations should be made by relatively small groups of Representatives (not less than five and not more than ten).

The British and French ministerial representatives at one time proposed, as an alternative method of meeting the wish of the Assembly to have complete control over the appointment of its own Clerk, that the procedure should follow a new rule laying down that the Secretary-General and Deputy Secretary- General should be appointed by the Consultative Assembly on the recommendation of the Committee of Ministers as at present, but that the Clerk of the Consultative Assembly should be appointed by the Committee of Ministers on the recommendation of the Assembly. The proposers of this scheme explained that the second half of this rule was merely intended to imply a formal approval by the Committee of Ministers. But the Assembly

Representatives did not think that appointment of the Clerk by the Committee of Ministers, even though in form only, would be acceptable. Nor would they accept the implications of the proposed bargain and give up their claim to put forward candidates for the other two posts. The plan was, therefore, withdrawn by its sponsors.

3.2. 2. *Nominations*

(a) The Committee of Ministers shall examine the list of candidates who may be called for a personal interview by the Committee or by a Sub-committee appointed for the purpose.

(b) Unless it has been otherwise agreed after discussion in the Joint Committee, the Committee shall thereupon draw up a list of at least two names for submission to the Assembly.

(c) In the case of candidates for the posts of Secretary-General and Deputy Secretary-General, the Committee of Ministers shall be free to list the names in order of preference, should it so desire.

The words printed in italics are a new amendment proposed by the Committee of Ministers at the Joint Working Party meeting on 1st October 1956 which was agreed to by the Bureau. They are designed to meet the case where both sides agree on one name in the Joint Committee.

3.3. 3. *Criteria determining the choice of candidates*

(a) The recruitment of persons of the highest ability and integrity and suitability for the post to be filled.

(b) The qualifications and experience of persons already employed by the Council of Europe shall be taken into consideration, so that members of the Secretariat may have reasonable prospects of promotion.

(c) The desirability of ensuring an equitable geographical allocation of appointments among nationals of the Member States, subject to the overriding interests of efficiency. No appointment to the Secretariat shall be considered to be the prerogative of any particular Member State.

3.4. 4. *Consultation in the Joint Committee*

Before transmitting to the Consultative Assembly a recommendation for the appointment of the Secretary-General, Deputy Secretary-General or Clerk of the Assembly, the Committee of Ministers shall consult the Assembly on the subject, normally through the medium of the Joint Committee (Resolution (53) 33).

3.5. 5. *Procedure in the Bureau*

The proposals submitted to the Assembly by the Committee of Ministers shall be examined by the Bureau, which may summon candidates to an interview. The Bureau shall then transmit the proposals to the Assembly, indicating, if it thinks fit and where appropriate, its own order of preference and the order of preference of the Committee of Ministers with regard to the candidates.

3.6. 6. *Procedure in the Assembly*

(a) The Assembly shall then proceed to make the appointment. No debate shall take place.

(b) Voting shall be by secret ballot.

(c) An absolute majority of the votes cast shall be required at the first ballot and a relative majority at the second.

The words printed in italics were proposed by the Committee of Ministers but the Assembly Representatives pointed out that this sentence might lead to an unnecessary clash. It could not prevent a debate in the Assembly if it were desired to hold one. There have so far been no debates in the Assembly on the merits of candidates.

3.7. 7. *Term of office and renewal of appointment*

Three proposals have been considered by the Joint Working Party :

- a. Limitation to a period of (4 or) 5 years, with the possibility of renewal if an affirmative decision is taken by the Committee of Ministers and the Assembly (German-Italian proposal).

- b. Limitation to a period of 5 years, with automatic renewal unless the Ministers or the Assembly decide to the contrary (Franco- British proposal).
- c. Maintenance of the status quo, i.e. no time-limit (Benelux proposal).

The object of proposal (a) was to facilitate rotation in the senior posts. The disadvantage is the danger that a competent official might be displaced for political reasons; this would not only be unfair to him, but would discourage good candidates from applying for the top posts. The principle of promotion inside the Secretariat has now been accepted, and only a very few of its members are officials of national Governments who could return to their national administrations.

Proposal (b) is designed to avoid this danger by providing that an appointment will be automatically renewed unless a positive decision is taken to terminate it.

Proposal (c)—appointments without time-limit—is designed to secure the greatest possible degree of independence of the senior officials vis-d-vis Governments.

At a meeting on 7th September 1956, the Bureau of the Assembly expressed a preference, by a majority, for the maintenance of the status quo, i.e. that there should be no timelimit to the term of office. (Proposal [c]).

The ministerial representatives, on the other hand, stated at the Joint Working P a r t y meeting on 1st October 1956 that they had agreed on a five-year term, with automatic renewal for a further period unless either the Assembly or the Committee of Ministers desired a change. (Proposal [b]). The clause now proposed by the Committee of Ministers is as follows :

The three senior officials shall henceforth be appointed for an initial period of 5 years. Any such official may be reappointed for a further t e r m of 5 years from the expiry of t h e initial or of any subsequent term, and shall be deemed to have been so reappointed unless either the Committee of Ministers or the Consultative Assembly has, six months before the end of the term, expressed the desire t h a t someone else be appointed to the post.

While there was no agreement on this clause at the meeting on 1st October, both sides said that they were anxious that the clause eventually to be adopted should be so framed as to render the higher posts in the Secretariat attractive to persons of outstanding ability.

During these negotiations there has also been some discussion about the retirement age but the Bureau is not yet ready to make a recommendation on this subject.

4. Conclusion

Bearing in mind the need for an early agreement which will permit the new rules to apply in the forthcoming appointment of a Secretary-General, the Bureau asks the Assembly to authorise it to conclude an agreement with the Committee of Ministers on t h e following basis :

Clause 1

Concurrence with the view of the Committee of Ministers t h a t the submission of candidatures by members of the Assembly should be limited to the post of Clerk, provided that in the case 'of the other two appointments the Ministers will agree to discuss the matter in the Joint Committee not less than 30 days before nominations are made.

Clauses 2 to 5

As drafted above.

Clause 6

As drafted, with the deletion of the words " No debate shall take place. "

Clause 7

Ministers' draft accepted.

Appendix APPENDIX

LIST of appointments to the three senior posts in the Secretariat-General

11th August 1949 : M. Paris, Secretary-General Mr. Halford, Deputy Secretary- General

7th August 1950 : M. Caracciolo di Castagneto, Chief of the Administrative Services of the Assembly with the rank of Deputy Secretary-General

26th May 1952 : Mr. Lincoln, Deputy Secretary- General

21st September 1953 : M. Marchal, Secretary-General

24th May 1954 : M. Struycken, Chief of the Administrative Services of the Assembly with the rank of Deputy Secretary-General

8th July 1955 : Mr. Curtis, Deputy Secretary- General

21st April 1956 : M. Schloesser, Clerk of the Assembly with the rank of Deputy Secretary-General