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European integration and parliamentary institutions

Report¹

Committee on Political Affairs and Democracy

Rapporteur: Mr J.M. van der GOES - van NATERS, Netherlands, Socialist Group

1. 1956 - 8th Session - Second part



A. Draft Recommendation

The Assembly,

Being concerned that European parliamentary control should be instituted over the real power to be vested in European organisations, which would thus lie beyond the control of national parliaments;

Having regard to the continual expansion of parliamentary activities and the urgent need for their rationalisation, in particular as regards the activities of the parliamentary organs of the broader-based institutions in relation to those of the restricted Communities;

Drawing the attention of the Committee of Ministers, in this connection, to the possibility that the European Nuclear Energy Agency, to be set up within O. E. C., may be granted autonomous powers over which national parliaments would have no control;

Hoping that, again with a view to rationalisation, Member States participating in the Conference on Euratom and the Common Market will not add to the number of existing European assemblies;

Being desirous that members of the Common Assembly of E. C. S. C., or of the Euratom and Common Market Assemblies, should also participate in the delegations to the Consultative Assembly, in order to be present when the same problems are being dealt with within the wider context of O. E. C.;

Noting that these measures carry certain implications regarding the co-ordination of the Secretariats and Clerks' Offices;

Resolved to make a detailed study of ways and means of implementing the above mentioned principles,

Recommends to the Committee of Ministers that the Governments who will be called upon to take decisions in this matter, while bearing in mind the need to provide with a parliamentary organ every European institution which has a specific competence, will ensure that there is no duplication of work among existing European assemblies.

B. Draft Order

The Assembly,

With reference to its Resolution... (the above draft), containing certain principles relating to the future organisation of European parliamentary activities,

Instructs the Committee on General Affairs to devise, in co-ordination with the other European Assemblies, ways and means of implementing those principles.

C. Explanatory Memorandum presented by M. van der GOES van NATERS

1. The Committee on General Affairs, which has been instructed within the context of the "new drive for European integration" to examine the institutional aspects of the problem of a general common market and European organisation in the field of atomic energy, has found that the question of parliamentary control over these two new European activities called for special consideration, the object being to devise the simplest methods of ensuring:

1.1.

1.2. that future European parliamentary work is simplified;

1.3. that each European institution with its own specific field of competence is equipped with a parliamentary organ;

1.4. that all duplication of work between the various European Assemblies is avoided; and (iv) that the closest possible links are established between the parliamentary organs of the more comprehensive organisations, on the one hand, and the restricted Communities, on the other.

2. The Committee is fully aware of the difficulties involved. When, at the beginning of the present part-Session, its Rapporteur Mile. Klompe submitted a detailed report on the many aspects of this problem, it decided to divide its work into two phases. The first phase will be devoted to working out guiding principles and the second to devising practical methods of applying those principles. The Committee has already embarked upon the first phase and has unanimously adopted the above draft Recommendation which draws the Committee of Ministers' attention to the principles that should be observed when drafting both the treaties on the common market and Euratom and the agreements on the establishment of a European Nuclear Energy Agency under the aegis of O. E. E. C. The Committee of Ministers should also be guided thereby when it discusses in its turn the rationalisation of European institutions. The Committee also requests the Assembly to grant it official authority to embark upon the second phase of its work, in co-ordination with the other European Assemblies, when it will devise practical methods of implementing the above-mentioned principles.

3. The Committee felt that the debate on these plans would be divorced from reality if members of the Assembly were not given a pre-view of the bold proposals put forward by Mile. Klompe, and has therefore decided to attach her report to the present document. It wishes once more to record its regret that Mile. Klompe will be unable to present this report to the Assembly in person, since she has been appointed to governmental office.

1. Report drawn up by Mile. KLOMPE

INTRODUCTION

4. Under the general heading of European integration, the Assembly has before it a draft Resolution on the creation of a general common market and the association of this market with a free trade area, presented by the Committee on Economic Questions as regards economic aspects, and by the Committee on General Affairs as regards political and institutional aspects. The Committee on Economic Questions has also submitted a report on the economic, technical and financial aspects of the European organisation of atomic energy, whereas the Committee on General Affairs did not feel able to prepare a report on the political and institutional aspects of this question until sufficient headway had been made in the intergovernmental negotiations now proceeding at the Brussels Conference on Euratom and the Common Market and at O. E. E. C. in Paris; for not until such a stage has been reached can the Assembly enlarge upon the views contained in Resolution 97 of 21st April 1956.

5. In the present report the Committee on General Affairs merely suggests solutions to two major problems arising from "the new drive" for European integration:

5.1. How can there be adequate parliamentary supervision of the exercise of powers transferred by the Governments to European institutions in connection with the "new drive", whether such powers are based on the Brussels Report or are vested in O. E. E. C? Insofar as such powers bypass normal parliamentary control, supervision must be planned on a European scale.

5.2. How can there be the closest parliamentary co-ordination between supervision of the work of the proposed new restricted communities (Euratom, Common Market) and that of O. E. E. C? It has always been one of the main preoccupations of the Consultative Assembly to establish the fullest liaison between these two trends of European unification, and the Committee on General Affairs once more finds itself obliged in this context to raise the problem of links between O. E. E. C. and the Consultative Assembly.

6. The Committee on General Affairs wishes to emphasise at once that the agreements now being prepared are more important than ever before from the point of view of European unification, for the Suez affair has provided further evidence of the need to press forward with European unification without delay. Now, if ever, is the time for the fullest co-ordination between the efforts of "little" and "greater" Europe.

1.1. Parliamentary supervision of the activities covered by the "new drive for European integration"

1.1.1. Euratom and the work of O. E. E. C. in the atomic field

7. No definition has yet been given of the nature and powers of the Assembly which would supervise the work of Euratom. It has been asserted in principle that such an Assembly is necessary² in view of the range of activities to be covered by the Euratom's European Commission. By reason of its duties and powers, this Assembly will have much in common with the ECSC Assembly.

8. O. E. E. C. has set up a Steering Committee for Nuclear Energy which, according to the Special Committee's report to the Council, "shall be invested with the powers it requires for the discharge of its duties"³ when the new European Atomic Energy has been established. It will be empowered *inter alia* "to exercise the powers of decision conferred on the Organisation under international agreements for the allocation of fissionable materials supplied to the Organisation or to its member countries or produced by the joint undertakings" and "to decide what interim protective measures should be taken or what sanctions applied in the event of any infringement of the security regulations, subject to the competence of an international tribunal which may be recognised in this matter". The experts who drafted this report were conscious of the fact that such autonomous powers would require special parliamentary supervision⁴, although they made no pronouncement on the form that this should take. It is a fact that some of the decisions reached by the Administrative Committee by virtue of these powers (particularly majority decisions) will escape the control and vote of censure of the national Parliaments. It follows of necessity that a European Assembly must be given control over the exercise of such powers, if an irresponsible European technocracy is to be avoided. Since the Consultative Assembly has for many years held what is virtually a watching brief over the activities of O. E. E. C., it would be logical to ask this body to make the necessary arrangements on the lines indicated below.

2. Report of the Heads of Delegations to the Ministers for Foreign Affairs, Chapter 6.

3. Report of the Special Committee for Nuclear Energy to the Council, C (56) 164, Annex V, para. 11.

4. Report of the Special Committee, para. 26: "Special provisions should also be made by the Council to ensure that the Steering Committee has the necessary contacts with international bodies comprising parliamentary representatives as well as representatives of industries or trade unions concerned"

1.1.2. *The general common market and the free trade area*

9. The problem is identical in relation to the second aspect of the "new drive": the creation of a common market and its association with a free trade area. The European Commission in charge of the common market will enjoy independent powers and its natural concomitant is an Assembly with effective powers modelled on those of the ECSC and Euratom Assemblies. Nothing is yet known of the form which the free trade area will take, but it can be stated without hesitation that there should at any rate be supervision of the activities of O. E. E. C. in this field and that this should be assigned to the Consultative Assembly on the lines indicated below.

1.1.3. *The Consultative Assembly as the parliamentary organ of O. E. E. C.*

10. It has been shown in previous paragraphs that the new restricted Communities should be arranged on similar lines to the Common Assembly of E. C. S. C., the point of departure for supervision of O. E. E. C.'s new activities should be the Consultative Assembly. For some years now, the latter has been receiving progress reports from O. E. E. C. and giving Opinions thereon. Now that O. E. E. C. is to assume new functions, the time has come to place the practical co-operation which has grown up between the two organisations on a more formal basis. This would mean solving the problem of the representation of States which are Members of O. E. E. C. but not of the Council, namely Switzerland and Portugal, and here the Committee on General Affairs proposes a return to an idea originally mooted in its 1954 report on the Committee of Ministers' programme of work, which was presented on its behalf by M. Mommer (Doc. 264, paras. 27-31). This idea is that the Consultative Assembly should hold a special session with Swiss and Portuguese Members of Parliament, outside the normal framework of the Statute of the Council. Needless to say, Swiss and Portuguese Members of Parliament would have the same rights as other members at such meetings. The preparatory work for these meetings would be done by committees comprising representatives of all the Member States of O. E. E. C.

11. As a general rule these special sessions would merely have consultative powers. However, where the powers of an O.E.E.C. Agency (such as the European Nuclear Energy Agency) were independent, the special session covering their exercise should be given exceptional and effective powers of control over and above its normal advisory functions. Here one might revert to an idea put forward by the Assembly as early as 1950 (Recommendation 4): "By special conventions concluded between the Member States or between some of them, powers not provided for by the Statute of the Council" might be conferred on special meetings of the Consultative Assembly attended only by representatives of the signatory States. The same idea reappeared later in the Eden Plan. It should be added that the composition of special sessions would have to be varied according to the number of Member States of the Council and O. E. E. C. which took part in the OEEC activity to be debated — general activities, European Nuclear Energy Agency, free trade area, etc.; that whereas parliamentary supervision is not yet certain that every Member State of each Organisation will participate in every new activity.

12. The Rules of Procedure of the Consultative Assembly should be applied at these special Sessions to avoid the drafting of a new set of rules, although there would have to be special provisions defining effective powers in specific cases. The Clerk of the Consultative Assembly should have charge of all these sessions, being jointly responsible to the Secretaries-General of the Council of Europe and of O. E. E. C. Moreover, for the work relating to these sessions, his staff should include nationals of Member States of O. E. E. C. which are not Members of the Council.

13. Thus the Consultative Assembly, meeting in special session would in fact become the parliamentary organ of O. E. E. C., and this, in the view of the Committee on General Affairs, involves the further necessity of tackling the problem of two separate ministerial authorities: the Committee of Ministers of the Council of Europe and the Council of O. E. E. C. This matter has already been raised in the Assembly on many occasions. For instance, in 1953, M. Bohy, speaking on behalf of the Committee on General Affairs⁵, gave the following summary of the principle of all previous Assembly recommendations on the subject: the C

5. Fifth Ordinary Session :Doc. 160

committee of Ministers would include Ministers from all the OEEC countries when economic questions were under discussion, but would be limited to the Member States of the Council when it considered other means of fulfilling the aims of the Council of Europe. As a first step towards such an inter-relationship between the two Organisations, it would be desirable to consider establishing them in one and the same locality.

14. To conclude this chapter, the following points may be emphasised:

14.1. Parliamentary control of Euratom and the Common Markets should be ensured by taking the Common Assembly of E. C. S. C. as a point of departure for new Assemblies.

14.2. The Consultative Assembly, meeting in special session with Swiss and Portuguese Members of Parliament, should be given a watching brief over the present activities of O. E. E. C. as well as its future work in connection with the free trade area and nuclear developments. The composition and powers of these special sessions would vary according to the number of States participating in either of these activities and to the powers conferred on O. E. E. C. in each field. The Clerk of the Consultative Assembly should be made responsible for such sessions to the Secretaries-General of the Council and O. E. E. C.

14.3. On the ministerial plane, this opportunity should be grasped of enabling the Committee of Ministers of the Council to meet as the Council of O. E. E. C. when economic questions come under discussion, its membership being confined as before to the Member States of the Council of Europe, when it considers other means of fulfilling the aims of the latter.

14.4. The Committee of Ministers should appoint a group of experts to devise the most economical method of establishing the Council and O. E. E. C. in one and the same locality.

1.2. Improvement in the functioning of the European Assemblies

15. Once "the new European drive" within both the restricted and the wider framework has been brought about there will be the following European Assemblies to reckon with, taking each as a completely independent body:

15.1. The Consultative Assembly of the Council of Europe;

15.2. The Consultative Assembly in Special Session with a variable membership and different powers, to discuss:

the work of O. E. E. C. within its present limits,

the future work of O. E. E. C. on the subject of the free trade area,

the future work of O. E. E. C. in the nuclear field;

15.3. The WEU Assembly;

15.4. The Common Assembly of E. C. S. C.;

15.5. The Euratom Assembly;

15.6. The Common Market Assembly.

16. Thus there would be six Assemblies (one might even say eight), in operation, each of them assisted by a number of committees. This multiplicity of European parliamentary bodies is inadmissible. There is a danger that the European cause will lose all prestige in the eyes of the public, that Governments will no longer know whom to consult and that parliamentarians will no longer be able to perform all the duties assigned to them. It is therefore necessary in the interests of all to "streamline" European parliamentary activity. The following basic principles should be taken as a guide:

16.1. the quality of the work must not be allowed to suffer, but improved;

16.2. the health of Representatives must be preserved and excessive absenteeism due to overwork must be avoided;

16.3. all duplication must be avoided;

16.4. there must be no split between the various Communities in which the European States are grouped;

16.5. the individual character of the two types of Assembly, namely the Consultative type and the type with its own powers of decision, must be preserved

Principles I and II : the maximum " output " of each parliamentarian

17. These two principles are interconnected: the quality of the work will inevitably suffer if superhuman efforts continue to be required of Representatives. For instance, the committees of the Consultative Assembly, W. E. U., and the Common Assembly, meet at least once in the interval between the sessions, and sometimes twice or even more frequently: thus Representatives to all three Assemblies are required to attend 5 to 10 committee meetings in addition to the three plenary sessions; all this in the short interval between the spring and autumn Sessions. Moreover, each Representative is expected to continue to exert his influence in his national parliament; this is indeed necessary in the interests of the European Assemblies themselves, especially during the transition period between national structure and the achievement of a united Europe. At the same time Representatives have to keep in touch with their constituents. In fact the optimum " output " has already been exceeded with the result that the policy of personal contact between Representatives to all the Assemblies, pursued since 1949, must be abandoned. The present situation calls for a new solution,

Principle III : duplication of work

18. E. C. S. C., Euratom and the General Common Market deal with a number of common problems such as investment policy, and power production and supply policy in connection with which each of them has specific responsibilities; social policy and economic adjustment policy. If each of these Communities is to be administered by different authorities, both logic and the quality of the work require that the parliamentary representatives concerned with these matters should be the same, or better still, that a single Assembly should cover this field. In addition, representatives of other States could take part in one or more of the Communities. To take the Council of Europe and W. E. U.; they also have common problems such as general questions of international policy and their impact on defence and measures of European unification in the social and cultural spheres. The logical solution—which is already being applied—is that the States which are Members of both organisations should send the same Representatives to both Assemblies. With regard, lastly, to O. E. E. C., that organisation's contribution to European economic unification within the broadest framework is identical in scope with the work of the Consultative Assembly. Its activities in the field of coal and steel, nuclear energy and trade liberalisation overlap with those of the smaller Communities. A new solution must therefore be found which will allow for this double link. For example, the European Nuclear Energy Agency of O. E. E. C. is creating a common undertaking (one of the schemes under consideration is to set up a chemical separation plant) in which several of the Member States of Euratom will be taking part. The Representatives who control Euratom should therefore also supervise this particular aspect of the O. E. E. C.'s work, because they alone will be able to determine its effect on the work of Euratom. However, this new solution remains to be found.

Principle IV : The danger of a split between the " two Europes "

19. Nothing could be more harmful to European unification than diverging development of " little Europe " and " greater Europe ". In order to avoid this danger at parliamentary level, the Consultative Assembly⁶ proposed in 1951 the following draft protocol to the Treaty instituting E. C. S. C. : " The High Contracting Parties shall recommend to their respective parliaments that the members of the Joint Assembly of the community whom they are to appoint shall be selected from among the Representatives to the Consultative Assembly of the Council of Europe ". The final text of the Protocol says that " the Governments of Member States shall be requested to recommend to their respective parliaments that the

6. Third Session, 1951 :Doc. 13, Appendix II.

members of the Assembly whom they are to appoint should preferably be selected from among the Representatives to the Consultative Assembly of the Council of Europe". In fact, of the 78 members of the Common Assembly 14 are, at present, full members and 8 substitute members of the Consultative Assembly. There is nothing surprising in this, for, as we have seen under Principle II it is becoming increasingly difficult for parliamentarians to participate in all the activities of several Assemblies. A way out of this difficulty lies in a system of distribution of work by related subjects while still partly retaining the principle of dual membership: for instance, the Representatives to the Common Assembly of E. C. S. C., Euratom and the Common Market might also sit in the Consultative Assembly whenever the latter discusses in Special Session the same problems within the wider framework of O. E. E. C.; in other words they would at least attend debates on problems of energy (both conventional and nuclear), on the free trade area and, insofar as their other engagements allow, on the general activities of O. E. E. C. Their place would be taken by other representatives of these Member States whenever the Consultative Assembly discussed questions coming within the competence of the Council of Europe. They would also sit in the W E U Assembly.

20. There are several ways of achieving this:

20.1. The number of full members in the Consultative Assembly could be doubled without the any change in total figure, i. e. 138. Nor need the number of substitutes necessarily be changed. This would give a total number of 278 full members of whom one half (or their substitutes) would sit in the Consultative Assembly at its Ordinary Sessions (and at the W E U Assembly, if they happened to be members); the other half which would include all the members of the Common Assembly of E. C. S. C., Euratom and the Common Market, would sit in the Consultative Assembly at its Special Sessions devoted to discussion of similar problems within the wider context of O. E. E. C. Although the delegations of those Member States which did not belong to the smaller Communities would not need two groups of full members it would be only fair that they should be given equal treatment. It would, however, be sufficient to make their presents substitutes full members and to refrain from appointing new substitutes. This solution is open to the objection that it is contrary to parliamentary practice for a single seat to be occupied by two full members.

20.2. The number of full members and substitutes of each Member State in the Consultative Assembly could be increased by 50%. The Assembly would then have 204 full members and 204 substitutes. For instance, delegations now holding 18 seats would be allotted 27. With regard to the Member States of the restricted Communities, this figure would easily cover all the members of the Common Assembly of E. C. S. C., Euratom and the Common Market who would sit in the Consultative Assembly in Special Session. This solution has the drawback that the States which are not Members of these communities would also be obliged to send larger delegations to Strasbourg. The quorum for the Assembly would exceed the present figure and would be all the more difficult to achieve.

20.3. The States which are Members of the Communities might double their number of substitutes; in that event, the major delegations for instance, would consist of 18 full members and two sets of 18 substitutes. This figure would cover Representatives to the Common Assembly of E. C. S. C., Euratom and the Common Market, the distribution of seats being left to the delegations concerned. It would, however, appear to be advisable to grant Representatives to the Common Assembly the status of Substitutes to the Consultative Assembly, as they would only attend Special Sessions or perhaps only those which are directly concerned with the work of the restricted Communities. This should make the status of Substitutes acceptable to our colleagues in the Common Assembly. Member States which do not at the moment belong to the restricted Communities would not be obliged to double the number of their Substitutes, but could do so in the event of their acceding to or becoming closely associated with those Communities.

21. This solution, though not ideal, would appear to be the least complicated in the circumstances. Since the idea of appointing substitutes, though foreign to parliamentary practice, has been embodied in the Statute of the Council of Europe, it is better to make use of it than to devise new methods. To take a specific example, let us consider the case of Monsieur A. a French M. P. who represents his country in the Common Assembly of E. C. S. C., Euratom and the Common Market. If the proposed solution were adopted he would also be

a substitute Representative to the Consultative Assembly but would only attend Special Sessions devoted to debates on problems connected with the same subjects in a wider context. This would ensure co-ordination between the two parallel activities. The full member, Monsieur B. or his second substitute, M. C., would occupy this seat at the ordinary meetings of the Consultative Assembly and in the W E U Assembly.

22. This can be achieved merely by amending Article 25 (c) of the Statute, replacing the words: "each Representative may have a substitute..." by the words "each Representative may have one or two substitutes...". By virtue of Article 41, this amendment could be made without requiring parliamentary ratification. The national parliaments would be asked to appoint their delegations to the Consultative Assembly in such a way as to include Representatives to the Common Assembly of E. C. S. C., Euratom and the Common Market. This could be done in two ways. The Committee of Ministers should, when adopting the amendment to Article 25 (c), request States which are Members of the Communities to ensure, insofar as falls within their competence, that their national parliaments abide by this rule; the Bureau of the Assembly should also submit a resolution on the same lines for adoption by national parliaments where it should have the support of Representatives to the Assembly. There would be no need to amend the Treaty constituting E. C. S. C. since the Protocol already stipulates that the Members of the Common Assembly shall preferably be selected from among Representatives to the Consultative Assembly.

Principle V : Respecting the different characters of the types of Assembly

23. The above proposal in no way affects the fundamental difference between Assemblies having their own powers of decision, namely the Common Assembly of E. C. S. C., Euratom and the Common Market, and Assemblies with essentially consultative powers, while making for better co-ordination between both kinds of Assembly. It follows that the Offices of the Clerk of both kinds of Assembly must remain separate from each other. There would, however, be no need to go to extremes; in fact, Offices of the Clerks of the three restricted Assemblies should, as far as possible, be composed of the same persons; the same holds true in the case of the Clerks of Assemblies of the consultative type. Beyond that stage close co-operation between the different Clerks is the most that can be achieved until a new attempt is made to rationalise the activities of European bodies.

Long-term objective : greater rationalisation

24. While the above-mentioned proposals are likely to improve the working of the European Assemblies, they cannot take the place of rationalisation of all European activities which is becoming increasingly necessary as European integration progresses. During a debate in the Committee on General Affairs the Consultative Assembly was once described as the "mother of all European Assemblies". This is not, legally speaking, true, and it is indeed no longer possible to bring all these Assemblies within the framework of the Council of Europe. It may, however, be possible in the near future to incorporate all these different Assemblies within a "European Assembly" whose main purpose would be to act as a public symbol of European unity.