

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

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NINETEENTH MEETING OF THE MINISTERS' DEPUTIES

MEMORANDUM BY THE SECRETARIAT-GENERAL ON THE
CHOICE OF AN EMBLEM FOR THE COUNCIL OF EUROPE

PART I

Legal opinion on the powers of the two organs of the Council in this matter

1. In the course of its Fifth Session, 1953, the Consultative Assembly adopted a Resolution and a Recommendation concerning the choice of an emblem, worded as follows:

- (a) "Resolution (53) 41 on the choice of an emblem for the Consultative Assembly of the Council of Europe.
 - "(i) The Assembly resolves to take as its emblem an azure flag bearing a circle of fifteen stars or (on an azure ground a circle of five-pointed stars or, none of which are touching).
 - "(ii) This flag shall be flown outside the buildings of the Council of Europe whenever the Assembly is in session.
 - "(iii) Its use on other occasions shall be determined later by the Bureau of the Consultative Assembly."
- (b) "Recommendation (53) 56 on the choice of an emblem for the Council of Europe.

"The Assembly,

"Having adopted as its emblem an azure flag bearing a circle of fifteen stars or,

"Recommends that the Committee of Ministers:

- (a) adopt the same emblem as the symbol of the Council of Europe as a whole;
- (b) instruct the Secretary-General to enter into negotiations with the other European institutions to ensure that the emblems adopted by them shall have features similar to that adopted by the Council of Europe."

2. In a letter dated 1953, M. Hallstein, Secretary of State, pointed out to the Secretary-General of the Council of Europe that the power to adopt a Council of Europe emblem lay solely with the Committee of Ministers. In support of this view, M. Hallstein drew attention to Articles 13 to 16 of the Statute, and more especially to the provisions of Article 15 (a) which require that "the Committee of Ministers shall consider the action required to further the aim of the Council of Europe ..." and to Article 16, which provides that "the Committee of Ministers shall ... decide with binding effect, all matters relating to the internal organisation and arrangements of the Council ...".

3. Before proceeding to consider the powers of the two organs of the Council of Europe in this matter, it should be made clear what is meant by an "emblem".

4. An emblem should not be confused with a flag, which is an official sign of sovereignty and sometimes of international authority.

An emblem is merely an outward and symbolical sign by means of which a person shows that he (or she) belongs to a group, whether unorganised or not, or by means of which a group displays its individuality.

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5. The question now arises whether the Assembly adopted a flag or an emblem.

There are some grounds for uncertainty, since in both the Resolution and the Recommendation the word "flag" occurs.

It does not, however, appear that the Assembly adopted a flag. The title of both the Resolution and Recommendation contains only the word "emblem". Moreover, the substantive text of both documents states: "The Assembly resolves to take as its emblem ..." (Resolution); "Recommends that the Committee of Ministers adopt the same emblem as the symbol ..." (Recommendation).

That an emblem is referred to, and not a flag, is confirmed by the use of the word "symbol". The word "flag" used in the Recommendation and Resolution merely indicates the form the emblem should take. The debates which have taken place in the Assembly bear this out. (Official Reports, Vol. V. 1953, pp. 663 to 667).

6. It is therefore clear that the Assembly adopted an emblem, but an emblem for the Assembly and not, for the time being, for the Council of Europe. It is, moreover, clear that only the Committee of Ministers, as the executive organ of the Council (Article 13 of the Statute), could have adopted an emblem for the Council as a whole.

7. The question therefore arises whether, under the Statute, the Consultative Assembly may adopt an emblem which is not at the same time that of the Council of Europe as such.

8. In the Preamble to the Statute the Council of Europe is described as "consisting of a Committee of representatives of Governments and of a Consultative Assembly". This definition stresses the indivisible character of the Council. The two organs comprising the Council do not exist independently of each other, but together form a single entity. They are served by a common Secretariat.

9. Only the Council possesses juridical personality; its individual institutions do not (Article 1 of the General Agreement on Privileges and Immunities).

10. The preparatory work on the Statute supported cohesion between the Committee of Ministers and the Assembly. At the Ambassadors' Conference (London 28th March to 12th April, 1949), stress was laid upon the need for close co-operation between the two organs and it was resolved that the members of the

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Committee of Ministers should have the right to make recommendations to the Assembly so that both institutions might be closely associated with each other and the Committee of Ministers enabled to guide the Assembly along the desired lines (C.E. (Prep.) M. 3rd meeting, No. 4 - revised). At the Conference of Ministers for Foreign Affairs (London, 3rd to 5th May, 1949), it was stressed that the organisation formed a single entity and that the Committee of Ministers was the key institution of the Council.

11. It is therefore difficult to conceive that one of the institutions of the Council should be able to adopt an emblem which is not at the same time that of the organisation as a whole.

12. It is true that the Assembly has recommended that the Committee of Ministers should adopt the same emblem for the Council as a whole, but it should be noted in this connection that the precise powers of the Assembly are laid down in the Statute. As a general rule the Assembly may make recommendations upon any matter within the aim and scope of the Council (Article 23). It may appoint Committees or Commissions to consider and report to it on any matter falling within its competence, to examine and prepare questions on its Agenda and to advise on all matters of procedure (Article 24). It may adopt its Rules of Procedure (Article 28), Resolutions on questions of procedure and rules governing such procedure (Articles 29 and 30). Although the powers enumerated above may not be restrictive, the consultative character of the Assembly imposes upon it certain obligations towards the Committee of Ministers. Generally speaking, Assembly Resolutions should not prejudice the decisions which the Ministers may be called upon to take on proposals concerning the Council of Europe as a whole.

13. One last point is worthy of mention. In the Assembly's Resolution No. 41 it was resolved that the flag should be flown "outside the buildings of the Council of Europe whenever the Assembly is in Session". This order could in fact be carried out only through the Secretary-General of the Council of Europe, who is himself responsible to the Committee of Ministers under the terms of Article 37 of the Statute.

PART II

The developments which led to the adoption of
Recommendation 56 and Resolution 41

1. As soon as the Council of Europe came into being numerous enquiries were received as to the nature of the Council's emblem. Sometimes the emblems of unofficial movements were taken for official emblems. A number of spontaneous proposals were also made.
2. The matter was brought to the knowledge of the Bureau of the Assembly by the Secretary-General at the end of 1949, when the Bureau took the view that the opinion of the Assembly as a whole should be obtained and that a sub-committee might be appointed to prepare a report on the matter.
3. At the beginning of 1950 the European Parliamentary Union proposed to the Secretary-General that the emblem of the Pan-European Movement should be adopted.
4. On 23rd June, 1950, the Committee on General Affairs requested the Secretary-General to draw up a Report on the practical steps which might be taken to make public opinion directly aware of the reality of European union. This Report was prepared and submitted to the Assembly as Appendix II to Document AS (2) 85.
5. On 18th August, 1950, the Consultative Assembly confirmed the Resolution of the Committee of General Affairs and on 28th August it requested each of its committees concerned to consider the suggestions contained in the document of the Secretariat-General. The first of these proposals concerned a "European flag" and was referred to the Committee on Rules of Procedure and Privileges.
6. In the meantime a proposal by M. Bichet, Representative to the Consultative Assembly, was laid before the French National Assembly, requesting that the emblem of the European Movement be flown on French Public buildings and campaigns were held for the use of the emblem of the European Movement.
7. On 26th July, 1951, the Sub-Committee on Immunities of the Committee on Rules of Procedure and Privileges studied the Report drawn up by the Secretariat-General (AS/RPP II (3) 2) and

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resolved that

- (a) in principle it was desirable that the Council of Europe should have its own flag and emblem;
- (b) The Secretariat-General was invited to prepare a Memorandum summarising the suggestions made for an emblem, the rules which should govern its use and the legislative measures necessary to ensure that it would receive the respect generally accorded to national flags.

8. On 27th November, 1951, a plenary meeting of the Committee on Rules of Procedure and Privileges considered the question and resolved to seek the opinion of Representatives before itself considering what form the emblems should take.

9. In accordance with the Committee's instructions enquiries were instituted among Representatives to the Assembly and the results notified by the Clerk to the Assembly in a letter dated 13th February, 1952. 48 Representatives replied, of whom 23 said that they were in favour of the emblem of the Pan-European Movement. A number of objections of principle were, however, raised to the latter emblem owing to the fact that it contained a cross.

10. Don Salvador de Madariaga, Chairman of the European Culture Centre, proposed a flag with gold stars on a blue ground and asked that his proposal be submitted to the Assembly.

11. On 30th August, 1952, the Europa-Union, Hamburg, gave favourable consideration to several proposals submitted in connection with a public competition and including one for a blue flag with a circle of gold stars.

12. The Committee on Rules of Procedure and privileges requested the Secretariat-General to submit a further report, but owing to pressure of other work the Committee was unable to consider the Report (AS/RPP (5) 1 until May, 1953. At a meeting held on 20th May the Committee gave its provisional general approval to a proposal for a flag comprising a circle of gold stars on an azure ground. It resolved to consult the High Authority of the E.C.S.C. and the Interim Commission of the E.D.C. M. Bichet was appointed Rapporteur.

13. The unofficial consultation requested by the Committee took place. The High Authority stated that, in principle, it was not prepared to adopt an emblem so long as there was no Political Community, but that it would adopt the flag of that Community

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when the latter was constituted. With regard to the E.D.C., it was confidentially stated that its Military Committee had already adopted the white flag bearing the triple-pale green "E" of the European Movement.

14. On 17th September, 1953, M. Bichet presented his Report to the Committee and, while not abandoning the first proposal entertained by the Committee, he said that it was preferable to revert to white and green. He tabled a draft Recommendation calling for the adoption of the emblem by the Assembly and a Recommendation that the Committee of Ministers should invite Members to adopt this common emblem. The Committee decided to retain the colours blue and gold approved by it in May and instructed M. Bichet to prepare the final text of his Report.

15. On 18th September, 1953, the Assembly resolved to place the matter on its Agenda.

16. On 21st September, M. Bichet tabled his Report (Doc. 198 of the Fifth Ordinary Session) containing a draft Resolution and a draft Recommendation. He stated that this procedure was suggested since it appeared "unwise to embark upon a lengthy procedure before the emblem could be put into effective use". It was indeed the fact that other organisations might adopt emblems having no similarity to that of the Council which prompted the Committee to precipitate matters; this preoccupation was clearly apparent in sub-paragraph (b). In describing the emblem the Rapporteur moreover refrained from speaking of "Members of the Council of Europe" preferring the words "nations represented in the Consultative Assembly".

17. On 25th September the matter came up for discussion in plenary Session. After a report by M. Bichet, M. Erlor, drew the Assembly's attention to the difficulties with which the proposal might meet in the Committee of Ministers and he requested that it be referred to the Committee on General Affairs for opinion. This proposal was opposed by M. Braun and the Rapporteur, the latter pointing out that whatever the Assembly might decide, the final decision would rest with the Committee of Ministers, which would have "to size it up, interpret it and make a final decision" and was "better qualified to weigh up the political implications of its decision". The proposal that the matter should be referred back to the Committee was rejected. The Resolution was adopted by 49 votes to 17, with 8 abstentions, and the Recommendation by 54 votes to 17, with 7 abstentions.

18. At the request of M. Kiesinger, the symbolic description of the emblem was amended and the word "nations" replaced by the word "Members".

19. At a meeting of the Bureau of the Assembly on 16th January, 1954, the Chairman expressed the view that, having regard to certain objections raised by the German Government, the Bureau should consider the matter as soon as the Committee of Ministers laid it before them.

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PART III

Possibilities of organising a public ompetition

1. The Secretariat-General asked the United Nations and NATO how they had chosen their respective emblems.

U.N. replied that its emblem was chosen in 1945 at the time of the San Francisco Conference and adopted by the General Assembly on 7th December, 1946. No competition had been held.

NATO also chose its emblem without holding a competition. A Committee of members of the staff of NATO had previously made a preliminary selection from among a number of suggestions and proposals from SHAPE and members of the staff of NATO. The Secretary-General, in consultation with that Committee, subsequently approved a design which was later adopted by the Permanent Representatives of the Member States of NATO.

2. So far as the Secretariat-General is aware, no European or international organisation has chosen its emblem as the result of a competition. It is, however, a frequent practice among business undertakings to hold such competitions for the purpose of obtaining advertising slogans.

3. Should it eventually be decided to hold a public competition for the purpose of acquiring a suitable emblem for the Council of Europe, it would be desirable first of all to insert appropriate notices in the leading newspapers of Member countries, inviting prospective competitors to submit their proposals to the Secretariat-General by a prescribed date.

Replies received would be screened and sorted by the Secretariat-General.

The replies should then be considered by a jury, which would award prizes provided for the purpose and make recommendations. The latter would be submitted to the Consultative Assembly for opinion.

A final decision would be taken by the Committee of Ministers on the basis of those recommendations and opinion.

Special credit would have to be made available to meet the costs of press publicity and for the payment of jury fees and the cost of the prizes to be awarded.

4. This procedure therefore appears to entail considerable expense. It would also have the disadvantage of being somewhat protracted, whereas it would seem to be advisable not to prolong the situation which arose after the adoption by the Assembly of its Resolution No. 41 of 25th September, 1953.