

# CONCLUSIONS OF THE HUNDRED AND SEVENTIETH MEETING OF THE MINISTERS' DEPUTIES

*held in Strasbourg from 29 April to 3 May 1968*

## *Present*

AUSTRIA . . . . .	Mr. W. GREDLER - OXENBAUER Mrs. H. WOLFRAM Mr. H. BIRNLEITNER
BELGIUM . . . . .	Mr. L. COUVREUR Mr. M. BOULANGER
CYPRUS . . . . .	Mr. C. PILAVACHI
DENMARK . . . . .	Mr. M. WARBERG, <i>Chairman</i> Mr. R. BRUSVANG
FRANCE . . . . .	Mr. M. de CAMARET Mr. M. SCHUBLIN
FEDERAL REPUBLIC OF GERMANY . . . . .	Mr. H. NORTHE Mr. G. DEYHLE Miss G. HAUG
GREECE . . . . .	Mr. B. VITSAXIS Mr. E. MEGALOKONOMOS Mr. S. TSATSOS
ICELAND . . . . .	Mr. S. HAFSTAD
IRELAND . . . . .	Mr. S.G. RONAN
ITALY . . . . .	Mr. A. ASSETTATI Mr. G. RIZZO-VENCI
LUXEMBOURG . . . . .	Mr. J. WAGNER
MALTA . . . . .	Mr. J. MAMO DINGLI
NETHERLANDS . . . . .	Mr. J. VIXSEBOXSE Mr. H. BIJL
NORWAY . . . . .	Mr. C. HOFGAARD
SWEDEN . . . . .	Mr. S. BACKLUND Mr. J. af SILLEN
SWITZERLAND . . . . .	Mr. D. GAGNEBIN
TURKEY . . . . .	Mr. E. DERINGIL Mr. M. KARACA
UNITED KINGDOM . . . . .	Mr. E.B. BOOTHBY Miss P. HUTCHINSON

The 170th meeting of the Deputies opened at 3 p.m. on Monday 19 April with Mr. M. Warberg, Deputy for the Minister for Foreign Affairs of Denmark and Permanent Representative of Denmark, in the Chair.

Opening the meeting, the *Chairman* welcomed Mr. Michel de Camaret, the new Permanent Representative of France to the Council of

Europe. He recalled that Mr. de Camaret already had extensive experience of international organisations : he had, for example, been a member of his country's delegation to the United Nations and, later, Political Director at NATO.

## **I. Adoption of the Agenda**

The Deputies adopted the Agenda (Appendix 7)<sup>1</sup>.

At the request of the representative of the Federal Republic of Germany, it was agreed that no decisions would be taken on the report of the 27th Session of the Committee of Experts on Social Security (Point X of the Agenda) until a later meeting.

## **II. Statement by the Secretary General**

The *Secretary General* reported to the Deputies on developments in Council of Europe activities since their 169th meeting. In the course of his statement, he made the following declaration concerning his mandate as Secretary General :

"I should like to make a statement with regard to the Secretary General's mandate which is due to expire on 8 March 1969. As was noted by your Committee at the 163rd meeting, this means that the procedures necessary to ensure continuity in the office must be set in motion in September 1968 in order to satisfy the rules in force. I feel that for the convenience of governments, I should now say something about my own position.

I do not intend to ask for a renewal of my mandate. However, I must point out that the month of March is not a convenient time in the year to hand over the Secretariat. An incoming Secretary General would be almost immediately confronted with, in all probability, a new Pre-

1. See page 237.

sident of the Assembly, and with the tasks of defending the next Work Programme before the Committee of Ministers and then presenting it to the Assembly, and of drafting a new budget. It would, therefore, clearly be preferable, in the interests of the organisation as well as those of any incoming Secretary General, if the change were to take place, in future years, in the early autumn, this being the date which appears to fit most easily into the annual rhythm of the Council's work as now established. If governments so wish, I would be willing to fall in with an arrangement, which would ensure the change taking place at that time of year. This would of course require the agreement of the Consultative Assembly since it would involve an extension of my present mandate, so as to ensure its expiring at a different time of year.

I have discussed this with the President of the Assembly, who said that he had himself had to rely a great deal on the Secretary General at the beginning of his term of office and that it had thus been important that at that moment the Secretary General had been in office for some time. He is therefore strongly of the view that it would be unfortunate to have a new Secretary General at a moment when there is likely to be a new President of the Assembly within a few weeks."

Numerous representatives commented on Mr. Smithers' statement either on behalf of their governments or in a personal capacity, and several regretted that the Secretary General would not ask for the renewal of his mandate and expressed the hope that, if circumstances should make it desirable, he would agree to the prolongation of his mandate for a period of more than six months.

At the same time, all speakers agreed that the arguments advanced in favour of handing over the duties of Secretary General in the autumn rather than the spring were very strong.

It was decided that the incoming Chairman of the Deputies should approach the President of the Assembly during the first part of the 20th Session in order to acquaint him unofficially of the position and inform him that there seemed to be a general feeling in the Committee of Ministers that Mr. Smithers' mandate should be extended for at least six months.

It was also decided to consider at the 173rd meeting the procedure for securing such an extension on the basis of a paper to be submitted by the Secretariat.

Finally, the Deputies took note of the fact that, in view of the likely prolongation of Mr. Smithers' term of office, governments would have until at least March or April 1969, when the lists would have to be closed, during which to consider what candidatures to submit to the Committee of Ministers for the post of Secretary General.

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At another stage in the meeting, the *Deputy Secretary General* reported to the Deputies on his recent mission to Teheran where, as agreed by them, he had represented the Council of Europe at the United Nations Conference on Human Rights. (The communication he made to the conference concerning the work of the Council of Europe in the international protection of human rights has been published as an information document - ref. D. 24248).

### III. Committee of Ministers Preparation of the 42nd Session

(Concl. (68) 169, Point XIX, and Letters D/1570 of 21 March 1968 and D/2.150 of 11 April 1968)

The Deputies reviewed the draft agenda of the Committee of Ministers in the light of the discussions held at their 169th meeting and of the message sent to Foreign Ministers by the Secretary General on 9 April, after his visit to the Chairman of the Committee of Ministers in Copenhagen.

#### *Political aspects of European economic integration*

The *Chairman* stated that, following the introductory reports presented by Mr. Edgar Faure on behalf of EEC and by Lord Chalfont on behalf of EFTA, the Danish Minister for Foreign Affairs intended to give a brief account of the meeting held in Copenhagen at the end of April between Prime Ministers and other Ministers of the five Nordic countries.

#### *Programme of Work 1968/69*

It was noted that the Ministers would be called upon to adopt a formal resolution approving the Programme of Work for 1968/69. Before doing so, the Secretary General would make an introductory statement.

*Relations with other states*

A number of delegations indicated that their Ministers would wish to speak on this item.

The representative of *Austria* said that his Minister would also wish to allude to the lack of effective liaison between the member states of the Council of Europe in connection with the work of the United Nations in New York.

The *Political Director* recalled that the item "Relations between the Council of Europe and the United Nations" had already been discussed by the Ministers at previous meetings and that at the 39th Session, in December 1966, it had been agreed that the Committee could return to the matter at any time.

The Deputies accordingly agreed to propose to the Ministers the inscription on the Agenda of an additional item - "Relations between the Council of Europe and the United Nations".

*GATT tariff negotiations and the follow-up to the Kennedy Round*

Although it was not yet known at this stage whether any Minister would speak on this item, several delegations asked that it should remain on the draft Agenda, owing to the contacts which were at present taking place between a number of European countries with a view to accelerating the implementation of the Kennedy Round.

*Atlantic Partnership*

The *Chairman* said that the Secretary General would probably be requested to inform Ministers briefly of the arrangements made by the Assembly for its Annual Colloquy with a delegation from the United States Congress on 8 and 9 May.

In conclusion the Deputies agreed to propose the following draft Agenda to the Committee of Ministers :

1. Adoption of the Agenda
2. Political aspects of European economic integration
3. Programme of Work
4. Relations with other states
5. Relations between the Council of Europe and the United Nations
6. GATT tariff negotiations and the follow-up to the Kennedy Round
7. Atlantic Partnership

8. Date and place of next meeting
9. Any other business
10. Press communiqué

It was also agreed to propose that the discussion of items 4 and 5 should be deferred until after luncheon.

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The *Chairman* recalled that at their 169th meeting the Deputies had agreed to discuss the pilot edition of the Information Bulletin for the embassies of member states in Eastern Europe, which the Political Director had transmitted to Permanent Representatives in his letter D/L.570 of 21 March 1968.

So far as the Danish delegation was concerned, the Bulletin was rather too long and detailed for a first issue. He thought it would be best to restrict it to a brief general guide to the Council of Europe. Succeeding numbers could then illustrate in greater detail one or other sector of the Council's specialised activities. Otherwise there was a danger that the officials concerned would not have time to assimilate so much material or make effective use of it in their contacts with Eastern European authorities.

The representative of *Italy* indicated that his Ministry of Foreign Affairs already sent regular reports to Italian diplomatic missions in Eastern Europe concerning the activities of the Council of Europe. He would therefore see no objection to the production by the Secretariat of a suitable information bulletin at periodic intervals, provided it were properly balanced. Information about European conventions which were open to accession by non-member states would certainly be useful. However, he agreed with the Political Director that information about the proceedings of the Consultative Assembly ought to be included in the bulletin. Experience showed that the authorities in Eastern Europe were interested in the political activities of the Assembly.

The representative of *Switzerland* said that the Political Department already sent information about the Council to Swiss Embassies in Eastern Europe. Nevertheless he thought the proposed experiment might be worth undertaking. He proposed a number of drafting amendments to the general guide appearing on pages (i) - (v) of the bulletin.

While agreeing with the amendments proposed, the representative of France congratulated the Secretariat on the presentation of the first trial bulletin. He thought that it would be important in future issues to publish more substantial information about the various Council of Europe conventions.

After further discussion, and on the proposal of the Chairman, the Deputies agreed to request the Secretariat to produce a revised version of the "brief guide" as soon as possible. Permanent Representatives could then send this to their governments for immediate transmission to embassies in Eastern Europe. It would be made clear to the latter at the same time that further bulletins illustrating different sectors of the activities of the Council of Europe would be communicated to them in due course.

**IV. European Committee on Legal Co-operation  
Convening of an ad hoc meeting for the purpose  
of an exchange of views on the work of the  
International Law Commission of the United  
Nations on "special missions"**

(Doc. CM (68) 61)

Acting on a recommendation from the European Committee on Legal Co-operation (CCJ), the Deputies authorised the convocation from 12 to 14 September 1968 of an ad hoc meeting of experts to exchange views on the work of the United Nations International Law Commission in respect of "special missions", in accordance with the arrangements set out in Document CM (68) 61.

**V. Rules of Procedure of the Ministers' Deputies  
(Concl. (67) 163, Point III, Docs. CM (67) 27 and 108,  
and CM (68) 41 and 58)**

The Deputies agreed to defer consideration of this question until their next meeting.

The *Political Director* requested that, in order to facilitate discussion, delegations wishing to propose amendments to Document CM (68) 41 or to comment on the substance, should submit their observations in writing to the Secretariat, for distribution. Those having no comments of substance to make were also invited to inform the Secretariat of the fact.

**VI. Committee of Experts on Human Rights  
Authorisation to hold a meeting in Salzburg**

(Doc. CM (68) 62)

The Deputies considered whether to authorise the Committee of Experts on Human Rights to hold its next meeting in Salzburg, after the symposium on "Human Rights and Mass Communications" to be held there from 9 to 12 September 1968 by the Assembly in conjunction with the Austrian Government.

The *Greek* Representative was in favour of giving the authorisation. He observed that by meeting occasionally outside Strasbourg, the Committee of Experts on Human Rights did much to spread the ideas of the Council of Europe. Such authorisations should not, of course, be given too frequently. He took the opportunity of congratulating the Austrian Government on their happy initiative.

The *Swiss* Representative expressed doubts regarding the authorisation requested. In his view, there were serious objections of principle to expert committees of the Council of Europe meeting away from Strasbourg when their terms of reference did not justify this. He was also opposed to the suggested transfer of appropriations to cover the additional expense of meeting in Salzburg. Such transfers, if repeated too often in the course of a budget period, were liable to have awkward consequences at the end of the year.

The *Italian* Representative entirely agreed with the Swiss Representative.

The representative of *France* doubted the wisdom of the proposed meeting. Of course from a statutory point of view the acceptance by a committee of governmental experts of an invitation from the President of the Assembly raised no difficulties. However, even if it were clear that the invitation was addressed to the experts individually, it might be questioned, as a matter of principle, whether it was a good thing to discuss at such meetings matters which were not included in the Programme of Work of the Council of Europe. To adopt this course might be inconvenient.

*Conclusions of the 170th meeting of the Deputies — 29 April to 3 May 1968*

The *Secretary General* drew attention to the keen interest consistently shown by the Austrian Government in the Council of Europe's achievements in the sphere of human rights. The Austrian Government's important share in the preparations for the Salzburg Symposium, and the invitation to the Committee of Experts on Human Rights, likewise called forth his warm appreciation. Nevertheless he agreed with the Swiss and Italian Representatives that, in principle, Council of Europe committees of experts were required to meet in Strasbourg. In future, expert committees should be authorised to meet in other towns only in absolutely exceptional circumstances, and he therefore hoped governments would not make a practice of inviting them to meet away from Strasbourg.

In the light of the foregoing, he hoped the Deputies would admit the existence of exceptional circumstances in the case of the Salzburg meeting.

The representative of the *Federal Republic of Germany* associated himself with the Secretary General's remarks and said that, in the present case, his government were likewise in favour of the Salzburg meeting.

The representatives of the *United Kingdom* and *Belgium* said they were not opposed to the meeting.

The *Chairman* hoped the Deputies would not allow too many exceptions to the rule.

The *Norwegian* Representative was in favour of the Salzburg meeting; however, he hoped that in future committees of experts would no longer hold meetings away from Strasbourg.

At the end of the discussion, the Deputies agreed to authorise the Committee of Experts on Human Rights to hold its next meeting in September 1968 at Salzburg, on the understanding that the additional expenditure incurred would be covered by a transfer inside Vote II of the Budget.

The *Swiss* Representative explained that, out of consideration for the Austrian Government, which would like the Committee of Experts on Human Rights to meet at Salzburg, he had not wished to vote against. For the reasons indicated above, however, he was firmly opposed to the holding of any other similar meeting away from Strasbourg.

The *French* Representative likewise declared that, in deference to the Austrian Govern-

ment, he had not wished to vote against the authorisation. However, he reiterated his doubts, based on his desire to ensure that the procedure prescribed for drawing up the Work Programme was observed as closely as possible.

The *Italian* Representative also abstained, on grounds of principle.

**VII. Statutory limitation as applicable to crimes against humanity**  
**Written Question No. 128 by Mr. Silkin and others**  
**Recommendation 415**

(Concl. (68) 169, Point XIV, Docs. CM (68) 32 and Misc (68) 12)

The Deputies agreed on the following reply by the Committee of Ministers to Written Question No. 128 by Mr. Silkin and others, on statutory limitation as applicable to crimes against humanity:

"The Committee of Ministers has considered Recommendation 415 on statutory limitation as applicable to crimes against humanity at several of its meetings since the recommendation was adopted.

Information on the measures already taken in certain member countries was communicated to the Assembly in the 17th Statutory Report for 1965 (Doc. 2046, Chapter IX, paragraph 242). Moreover, information on the work of the United Nations in this field was included in the reply to Written Question No. 123 by Mr. Housiaux (Doc 2182 of 24 January 1967).

Point (i) of Written Question No 128 asks for information on the present state of the measures adopted by member states of the Council of Europe and on the precise nature of these measures.

The position of the member states on the question of the statutory limitation for war crimes and crimes against humanity can be summarised as follows:

(a) In the following states, under their ordinary law or by virtue of special legislation, the rule of statutory limitation does not exist or may be set aside either for both war crimes and crimes against humanity or for one or other of those crimes: Austria, Denmark, France, Ireland, Italy, United Kingdom.

(b) In the following states, the ordinary rules of statutory limitation are apparently applicable

to war crimes and to crimes against humanity : Greece, Malta, Norway, Sweden and Turkey.

(c) The following states, which have statutory limitation for such crimes, have taken special steps which they deemed sufficient to ensure that crimes committed during the second world war and coming within their jurisdiction would not go unpunished : Belgium, Luxembourg and the Netherlands.

(d) The Federal Republic of Germany has adopted an Act providing that the prosecution of previously undetected offences of the most serious kind will be possible beyond 8 May 1965 until December 1969.

Appendix I sets out in detail the available information on national legislation on the subject, country by country.

Point (ii) of Question No. 128 asks what action the Committee of Ministers is now prepared to take in order to draw up an appropriate convention, in view of the urgency of the matter and taking into account the fact that the work of United Nations in this field has not made the progress envisaged in Resolution 1158 of the United Nations Economic and Social Council.

It should be recalled that the UN Commission on Human Rights has discussed the question of punishment of war criminals and of persons who have committed crimes against humanity at each of its recent sessions starting in March 1965. The UN Economic and Social Council for its part, by Resolution 1074 (XXXIX) D of 28 July 1965, urged all states to continue their efforts to ensure that, in accordance with international law and national laws, the criminals responsible for war crimes and crimes against humanity are traced, apprehended and equitably punished by the competent courts; for this purpose, they should co-operate, in particular by making available any documents in their possession relating to such crimes.

On 5 August 1966, on a recommendation by the Commission on Human Rights, the UN Economic and Social Council adopted Resolution 1158, paragraph 3 of which invites "the Commission on Human Rights to prepare, at its 23rd Session, as a matter of priority, a draft Convention to the effect that no statutory limitation shall apply to war crimes and crimes against humanity, irrespective of the date of their commission". The Secretary General was requested to prepare a preliminary draft for such a convention.

At its 23rd Session in spring 1967, the UN

Commission on Human Rights was presented with the preliminary draft Convention and established a working group to consider it. However, the working group did not have sufficient time to complete consideration of this text; it was unable to solve the problem of reconciling the principle of non-applicability of statutory limitation with that of non-retroactivity of criminal law. It decided to refer the whole matter to the competent committees of the General Assembly, and to propose that governments should be given the opportunity to express their views on all the documents under consideration. Accordingly, in Resolution 1220 (XLII) the Economic and Social Council, on the recommendation of the Commission on Human Rights, transmitted the relevant documents to the General Assembly with a view to the preparation and adoption of a convention on this subject at the 23rd Session in the autumn of 1967.

In September 1967, the 3rd Committee of the General Assembly discussed this question and a Joint Working Group was established by the 3rd and 6th Committees with the specific task of preparing a draft Convention on the non-applicability of statutory limitation to war crimes and crimes against humanity. A draft Convention was prepared by 7 December 1967

On the recommendation of the 3rd Committee, the General Assembly adopted, on 18 December 1967, by 90 votes in favour and 2 against, Resolution 2338 (XXII) the operative part of which reads as follows :

"The General Assembly,

1. Thanks the Joint Working Group of the 3rd and 6th Committees for the work it has accomplished;
2. Takes note of the report of the Joint Working Group;
3. Requests the Secretary General to transmit to member states the report of the Joint Working Group containing the text of the draft Convention as adopted by the Joint Working Group, and to invite them to submit comments on the draft Convention;
4. Further requests the Secretary General to issue a report to member states, before the 23rd Session of the General Assembly, containing the replies received from member states in accordance with the preceding paragraph;
5. Recommends that no legislative or other action be taken which may be prejudicial to the

aims and purposes of a convention to the non-applicability of statutory limitation to war crimes and crimes against humanity pending the adoption of a convention by the General Assembly;

6. Decides to give high priority to the completion of the draft Convention on the non-applicability of statutory limitation to war crimes and crimes against humanity, with a view to its adoption at its 23rd Session."

In addition to the work for the preparation of a draft Convention undertaken in the framework of the United Nations, consideration has been given by certain UN organs to the development of international co-operation in the prosecution and punishment of those responsible for war crimes and crimes against humanity.

By Resolution 13 (XXIV) adopted unanimously by the UN Commission on Human Rights on 7 March 1968, the Commission requested the Secretary General to submit a study as regards ensuring the arrest, extradition and punishment of persons responsible for war crimes and crimes against humanity and the exchange of documentation relating thereto. The UN Secretary General was further requested to include in this study the examination of criteria for determining compensation to the victims of war crimes and crimes against humanity. The Commission decided to give high priority to the consideration of this item at its 25th Session in the spring of 1969.

From the above, it is clear that negotiations for the establishment of rules of international law as regards the applicability of statutory limitation to war crimes and crimes against humanity are fairly well advanced in the framework of the United Nations. The high priority given to the matter both by the UN General Assembly and by the UN Commission on Human Rights makes it reasonable to hope that it will be possible to arrive in the near future at a solution of this problem.

In these circumstances, the Committee of Ministers is still of the opinion that it is preferable that this matter should be dealt with by the United Nations rather than by the Council of Europe. The reasons for this view may be summarised as follows:

First, it is clearly preferable to establish, if possible, a rule of international law of general

application. If the General Assembly of the United Nations adopts a rule, whether in the form of a convention or in that of a declaration, this has a much greater chance of being accepted as a general rule than a text elaborated by a regional organisation of only eighteen states.

Secondly, if the Council of Europe now starts work on the preparation of a convention to deal with this problem, as proposed by the Assembly, this would inevitably lead to a duplication of work between the two organisations, something which both the Assembly and the Committee of Ministers have repeatedly expressed their intention to avoid. Moreover, it would place an additional and unnecessary burden on the legal departments of national governments, which are already fully occupied with other work resulting from the expanded legal programme of the Council of Europe.

Thirdly, experience has shown that the negotiation of international conventions - particularly on a subject of this sort - normally takes several years. It is therefore not surprising that the United Nations have not yet finished the work begun in 1965. If the Council of Europe were to start drafting a convention on this subject, there is no reason to suppose that the work would progress much more quickly - and it would, in any event, start with the time-lag of four years.

Fourthly, if a European convention were to be concluded on this subject, its contents might well differ from those of the UN Convention now in preparation, and this would have the unfortunate result of establishing different, and possibly conflicting rules on the same subject.

The Committee of Ministers nevertheless agrees to keep the matter under review and has instructed the Secretariat to keep it - and also, if it so wishes, the Legal Committee of the Assembly - fully informed on the progress made by the United Nations in dealing with this problem.

#### VIII. *Human Rights and modern scientific and technological developments* **Recommendation 509**

(Concl. (68) 168, Point III A (d) and Doc. CM (68) 53)

The Deputies resumed their discussion of Recommendation 509 on Human Rights and modern

scientific and technological developments in relation with their examination of the draft Inter-governmental Programme of Work 1968/69 (Point XIV of the Agenda) and in the light of the information given in Document CM (68) 53.

The representative of *Belgium* made the following statement :

"Work should be undertaken in the framework of the Council of Europe in order to attain closer harmonisation of existing legislation. This work should be based on studies or projects already carried out and should take the form of an exchange of views on the practical ways and means of applying those findings. The experts' task would be to collate the data already available at the various national levels and to draw up a consolidated paper. This work would have the advantage of informing the experts of each country of the scope of measures taken or contemplated elsewhere, thus creating a valuable source of documentation for the purpose of drafting parallel legislation in the different states.

In order to facilitate the work of the experts appointed to study the matter, consideration might be given to the possibility of sending member governments before the experts' first meeting a questionnaire prepared by the Secretariat and covering the following points among others :

1. Is any provision made or contemplated for the protection of private life against encroachment by modern scientific or technical devices ? If so, of what kind ?
2. What aspects of private life are covered by, or would qualify for, such protection ?
3. Are there any devices which are not, or cannot be, controlled ? If so, what are they ?

The consolidated document might subsequently serve as a basis for considering whether it is expedient to extend the scope of the European Convention on Human Rights by providing, in Article 8, for the protection of private life against encroachment by individualists."

For the above reasons, the Belgian Representative supported the proposals made by the Secretariat in Document CM (68) 53 for action to be taken by the Council of Europe in this matter.

The representative of *France* stated that the competent French authorities were studying the subject attentively and that at the present stage they had no objections to the recommendation.

The representative of *Switzerland* pointed out that a draft law on this subject had been tabled on 21 February 1968, together with an explanatory message from the Federal Council to the Chambers.

The representative of the *Federal Republic of Germany* said that his Government supported the proposal of the Secretariat to invite the Committee of Experts on Human Rights, the CCJ and the ECCP to consider the problem in their respective fields of competence. His Government proposed, on budgetary grounds, that instead of convening an ad hoc Joint Working Party advised by a consultant expert, the possibility be considered of entrusting the preparation of the report on the results of the work of the three committees to this one consultant expert. He referred in this connection to the recommendation of the Budget Committee appearing in Document CM (68) 36.

The representative of *Malta* said that he agreed that a study should be made of this problem, but the procedure suggested in paragraphs 1 and 2 on page 6 of Document CM (68) 53, might appear to be cumbersome. It would in his opinion be more practical if the study were to be made by a working group to be drawn from the Committee of Experts on Human Rights, the CCJ and the ECCP, assisted by an expert, with the following terms of reference :

(1) to consider the implications of the problem; and

(2) to advise the Committee of Ministers and, if necessary, to make recommendations.

The *Chairman* proposed that the work of correlating the activities of these three committees might be undertaken by the Deputy Secretary General whose vast experience in the field of human rights would make him specially competent.

The *Deputy Secretary General* stated that the subject was a new one, which would be of interest to governments at the national and international level. It had always been held that no right could be protected internationally which was not recognised at the national level. For this reason alone, the work might present complications and would no doubt extend over a long period. The Secretariat could certainly undertake the task of contacting governments, of collating information in the field and of producing a report, with the aid of a consultant expert. The Deputies could, if they wished, decide on the basis of the report what further action needed to be taken.

The Deputies agreed to instruct the Secretariat to place this subject, as now appearing in the Programme of Work for 1968/69, on the agenda of the Committee of Experts on Human Rights, the CCJ and ECCP (or in the case of the latter, its Bureau) with a request that they each consider the implications of the problem in their respective fields. The Secretariat was instructed to prepare a report analysing the results of the deliberations in each expert committee and making appropriate proposals for action by the Committee of Ministers in due course.

The Deputies agreed to reply to Assembly Recommendation 509 in the following terms :

"The Committee of Ministers has considered with great attention Recommendation 509 on Human Rights and modern scientific and technological developments.

The Committee of Ministers appreciates the concern of the Assembly in seeking to extend the scope of the international protection afforded to human rights with special regard to the right of privacy.

The Committee agrees with the Assembly that the problem of protecting the privacy of the individual is of great interest in Europe at the present time and has therefore inscribed the following point in Chapter II, Section III of the Intergovernmental Programme of Work for 1968/69 :

The right to private life, as affected by :

(a) the press and other mass information media;

(b) modern scientific and technological developments.

Study of the advisability of preparing a recommendation to governments."

In view of the complex technical aspects of this subject and of the problems of civil and criminal law which might arise, the Committee of Ministers decided to instruct the Secretariat to place it on the agenda of the Committee of Experts on Human Rights, the European Committee on Crime Problems and the European Committee on Legal Co-operation. The Committee of Ministers will decide, on the basis of the correlated reports of these three committees

what action should be taken by the Council of Europe in this matter."

This reply will be included in the next Communication to the Assembly.

**IX. Power to be conferred on the Assembly to refer alleged breaches of the Convention to the European Commission of Human Rights**

(Concl. (68) 168, Point III A (h), Docs. CM (68) 55 and Misc (68) 17 revised)

The Deputies pursued their examination of Recommendation 513 on the power to be conferred on the Assembly to refer alleged breaches of the Convention to the European Commission of Human Rights in the light of the draft reply submitted by the Secretariat, Document CM (68) 55, and of the revised draft reply incorporating the comments made by delegations during the course of the 170th meeting (Doc. Misc (68) 17 revised).

In the course of the discussion, reference was made by a number of delegations to the consultative character of the Assembly and to its role under the Statute. Doubts were expressed whether the proposal made in the recommendation would accord with the statutory position.

In conclusion the Deputies decided to send the Assembly the following reply :

"The Committee of Ministers has examined carefully the proposal made by the Assembly in Recommendation 513 that a Protocol should be concluded to the European Convention on Human Rights conferring on the Assembly the right to refer to the European Commission any alleged breach of the provisions of the Convention by a High Contracting Party.

The Committee of Ministers decided not to give effect to the proposal in Recommendation 513. The Committee is of the opinion that the procedure proposed by the Assembly might upset the balance which must be maintained between the various organs set up under the Convention, as experience has shown that this balance determines the efficient operation of the control machinery established by that Convention.

Furthermore, from the practical point of view, it seems most unlikely that governments which have not yet recognised the right of individual petition would be any more inclined

to ratify the proposed new protocol. In this event, the main purpose of the Assembly proposal would be defeated and all the work involved in drawing up the protocol, opening it for signature and securing its ratification by some national parliaments would have been in vain.

The Committee of Ministers is no less anxious than the Assembly that the Convention on Human Rights should be as effective as possible and welcomes the progress which has been made in this respect during the past fifteen years."

This reply will be inserted in the next Communication to the Assembly.

**X. Committee of Experts on Social Security  
Discussion of the report of the 27th Session and  
of the draft European Convention  
on Social Security**

(Docs. CM (68) 9 and Addenda I and II, and CM (68) 64 revised)

The Deputies took note of the report of the 27th Session of the Committee of Experts on Social Security and considered the points in it which required decisions by them.

1. The Deputies examined the draft European Convention on Social Security, having regard to the amendments proposed in Document CM (68) 64 revised.

The representative of *Turkey* said that he could approve the opening of the Convention for signature by member states and that his government would be able to sign it.

The representative of *Norway* said that his government had no objections to the Convention being opened for signature but that he did not know whether his government would be able to sign it.

The representatives of *Denmark* and *Sweden* asked that the decision be left to a later meeting, as their governments were still studying the draft Convention.

The representative of *France* presented a few preliminary observations which are set out in Document CM (68) 69. He said that the draft Convention was at present under study by the French authorities, and he was therefore obliged to reserve his position with regard to the opening of the Convention for signature.

The Deputies agreed to consider the draft Convention further at their 172nd meeting; in the meantime, delegations were requested to forward their observations, if any, to the Secretariat for circulation.

2. The Deputies examined the Committee of Experts' general considerations on the draft European Convention on Social Security (Addendum I to Doc. CM (68) 9). The Secretariat explained that, if the Deputies felt that a fuller explanatory report should be drawn up, arrangements would have to be made to appoint a working party of seven government experts plus two ILO experts.

The representative of *Ireland* did not think a fuller report was necessary as governments could obtain any further particulars they needed from their representatives on the Committee of Experts. He would nevertheless support the majority view.

The representative of *Switzerland*, on the other hand, thought a fuller explanatory report was essential. There had been real divergences in the Committee of Experts and it was important that governments should have a document to which they could refer for interpretation of a complex text.

An indicative vote showed that eleven delegations were in favour of a fuller report being drawn up. The Deputies will take a final decision on the question at their 172nd meeting in the light, among other things, of an opinion by the Budget Committee.

3. The Deputies agreed to defer their decision on the Committee of Experts' proposal to prepare immediately the administrative arrangement for the application of the Convention, until after they had approved the actual text of the Convention.

4. The Deputies agreed that a representative of the Directorate of Legal Affairs should make an oral statement at the Committee of Experts' next meeting, giving the Committee all relevant information on the work of the Sub-Committee on Privileges and Immunities of international organisations and persons connected with them. They will consider the desirability of consulting the Committee of Experts after they have received the final report of the Sub-Committee on Privileges and Immunities.

**XI. Council for Cultural Co-operation  
Report of the 13th Session**

(Docs. CM (68) 47 and 48)

The Deputies discussed the report of the 13th Session of the Council for Cultural Co-operation (Docs, CM (68) 47 and 48).

The *Director of Education and of Cultural and Scientific Affairs* referred to the draft European Convention on the Protection of the Archaeological Heritage (Appendix 1 to Doc. CM (68) 48) submitted to the Ministers' Deputies by the CCC, and stressed the importance and urgency of its content. He pointed out that apart from the main European Cultural Convention, the three other Council of Europe cultural conventions were "equivalence conventions" relating to education. Accordingly, the draft convention now submitted was the first to have a specific aim falling within the cultural field proper. He added that the draft convention had been unanimously approved within the CCC.

The *Head of the Division of Cultural Affairs* outlined the aims of the draft convention, which recognised the evolution in conservation principles, and took account of the need to counter the illicit traffic in archaeological objects. The work of UNESCO in this field had not progressed beyond the stage of a recommendation to governments. UNESCO was happy to see that efforts on the European level had led to the elaboration of a convention. Further, he pointed out that the present draft convention could be extended in the future to cover other aspects of the common cultural heritage of Europe.

The representative of the *Federal Republic of Germany* stated that his government was not yet in a position to approve the draft convention, because a detailed legal examination had not been possible owing to the lack of full documentation. His government wondered whether an explanatory report would be issued, as was usually the case.

The representative of the *United Kingdom* stated that the text of the convention was acceptable to the United Kingdom authorities with one minor technical amendment relating to Article 11 (1) and (2) where the words "any contracting party" are used. It was possible that a state exercising the provisions of these clauses might not be a contracting party to the convention at that particular moment, that is to say, a state for which the convention was in force. To cover

all contingencies the words "any contracting party" in these two clauses should be replaced by "any signatory or acceding state". This point might particularly apply if the United Kingdom Government were to extend the convention on ratification (for example to the Channel Islands and the Isle of Man) and ratify before the convention was generally in force.

The representative of *France* said that the French Government was very much in favour of this convention.

The representative of *Malta* said that, whilst page 3 of Document CM (68) 48 stated that the text of the Convention allowed for amendments made, *inter alia*, by Malta, the only amendment made by the Maltese Government to Article 1 had not been reproduced in the text. He therefore asked that the words "whether existing or found on land or under water and" should be inserted after the word "civilisation" in the third line of Article 1. The object of the amendment is to make it clear that the provisions of the convention apply equally to underwater sites etc.

The representative of *Austria* expressed his government's fullest support for the draft convention and for all the contents of the CCC's 13th report.

The representative of the *Netherlands* proposed the following amendments to the draft convention :

**Preamble**

In paragraph 3 to replace the present text by "Having regard to the European Cultural Convention signed at Paris on 19 December 1954". The present text appears unduly elaborate.

In paragraph 5 replace the word "affirming" by "recognising".

The last paragraph contains a reservation which in the opinion of the Netherlands might preferably be incorporated in the text proper of the convention by adding a new article following Article 7. The following text is proposed : "The measures provided for in the present convention can in no way restrict lawful trade in, or change of ownership of, such objects, nor affect the legal rules governing the transfer of such objects." As will be seen, the word "sale" in the English text has been replaced by the words "change of ownership", in order to give a closer rendering of the word "échanges" in the French text.

#### Article 1

In order to bring the English text more in conformity with the French text it is proposed to replace the words "shed light on" by "bear witness to", and to add the word "other" between the words "any" and "traces".

#### Article 2

In view of the scope of the measures provided for sub-paragraph (a), sub-paragraph (b) appears to be redundant and could be deleted, with simultaneous re-wording of the remaining part of the article.

#### Article 3

The words "and to the extent permitted by its national legislation" tend to weaken the effect of this provision especially in cases where national legislation for the protection of archaeological excavations is less well defined. The deletion of this phrase in both the English and French texts is proposed.

#### Article 4 (c), paragraph 2 (c)

1. Add letter "(b)" after the words "Article 3".

2. It is not clear what the nature of the certificate should be. Is it a document containing a report of an excavation and an inventory of the objects found, or is it a document to be attached to each single excavated object? For technical and administrative reasons it would be difficult to provide all excavated objects with such a document. This kind of identification should preferably be limited to the most important and most characteristic excavated objects. For trade purposes the use of these certificates seems to be limited, unless their use could be extended to objects excavated earlier.

#### Article 6, paragraph 2 (c)

The obligation in this sub-paragraph is rather vaguely formulated and could give rise to too wide an interpretation. It is proposed, therefore, that the first part of this sub-paragraph read as follows: "(c) to the extent permitted by national legislation, by education, information, vigilance and co-operation, to restrict the movement of archaeological objects."

The Deputies decided to adjourn their examination of this draft convention to their 172nd

meeting in June, and agreed in the meantime to bring any comments which they might have on it to the attention of the Secretariat. The Secretariat undertook to prepare an explanatory report on the convention for submission to the Deputies.

The Deputies then discussed CCC Recommendation No. 34 (1968) on the preservation of areas for outdoor leisure and adopted Resolution (68) 9 (in the same terms as Appendix II to Doc. CM (68) 48) the text of which is to be found in Appendix 1, page 173.

The Deputies then considered CCC Recommendation No. 35 (1968) on financial arrangements relating to the European Athletics Diploma.

The Head of the Division of Out-of-School Education recalled that this was a permanent activity appearing in Chapter VII of the Intergovernmental Programme of Work, and that its aim was to encourage the participation of young Europeans in sporting activities and at the same time imbue them with a sense of European solidarity.

The Deputies approved this recommendation and adopted Resolution (68) 10 on the financial provision for the European Athletics Diploma (Appendix III of Doc. CM (68) 48), the text of which is to be found in Appendix 1, page 175.

The representatives of Denmark and the United Kingdom abstained from voting for reasons which had already been made clear in the CCC.

The Deputies then considered CCC Recommendation No. 36 (1968) on the principles and practice of the active preservation and rehabilitation of groups and areas of buildings of historical or artistic interest, and CCC Recommendation No. 37 (1968) on the active maintenance of monuments, groups and areas of buildings of historical or artistic interest in the context of regional planning, in the light of the information set out in pages 4 to 6 of Document CM (68) 48, and adopted Resolutions (68) 11 and 12 (Appendices IV and V of Doc. CM (68) 48), the texts of which are to be found in Appendix 1, pages 176 and 179 respectively.

The Deputies went on to consider CCC Recommendation No. 38 (1968) regarding the acceptance of the Belgian Government's invitation to hold a conference of ministers most directly responsible for the preservation and rehabilitation of groups and areas of buildings of historical or artistic interest.

The Director of Education and of Cultural and Scientific Affairs drew the attention of the Deputies to the importance of the proposed meeting of Ministers, which would set the final seal on the series of confrontations on rehabilitation and preservation of groups and areas of buildings of historical or artistic interest. The results of these would be summarised and presented to the Ministers responsible in this field. The Belgian Government had issued an invitation to the Ministers concerned to meet in Brussels in 1969 and Deputies were requested to agree that this meeting should be held in the framework of the Council of Europe and with the assistance of the Secretariat. Such a decision would imply an expenditure of approximately 30,000F which would be reflected in the Budget of the Council of Europe for 1969. It was proposed that the Secretariat assistance given would follow the precedent of the Conference of Ministers of Education.

The representative of France expressed his appreciation of the invitation of the Belgian Government but said that his authorities considered matters had not yet reached a sufficiently advanced stage to justify such a conference and therefore had serious reservations about the proposal.

On an indicative vote, eleven delegations voted for the adoption of CCC Recommendation No. 38, one voted against and six abstained.

The Deputies agreed to resume discussion of CCC Recommendation No. 38 at their 171st meeting in May, when a final vote will be taken.

The Deputies then considered the request of the CCC to raise the sum guaranteed to the Cultural Fund in 1968 by 5% for 1969 in the light of the information given in Appendix VII of Document CM (68) 48, and on the basis of the further explanations given by the Director of Education and Scientific and Cultural Affairs.

The representatives of France, Italy, and the United Kingdom stated that they were not in favour of the increase requested.

The representative of the Federal Republic of Germany said that his government was prepared to accept an increase of 5% or of any

lesser figure which received the approval of the majority.

On an indicative vote, eight delegations voted in favour of the proposal, four voted against and six abstained. The Deputies then adjourned further consideration of this question to their 172nd meeting in June.

In conclusion, the Deputies took note of the report of the 13th Session of the CCC.

## XII. Reply to the 2nd Report on the activities of the World Food Programme Recommendation 515

(Concl. (68) 168, Point III A (j), and Docs. Misc (68) 14 and 15)

The Deputies agreed on the following reply by the Committee of Ministers to Assembly Recommendation 515 :

"The Committee of Ministers has considered Recommendation 515 in reply to the 2nd report on the activities of the World Food Programme and has transmitted it to member governments and to the Executive Director of the Programme.

The Committee of Ministers is fully conscious of the importance of the World Food Programme and sets out below details of the contributions made to it by member states.

Austria's contribution to the World Food Programme for 1969 and 1970 will total one million dollars. This is equivalent to her contribution to date and represents one half per cent of aggregate contributions.

\$100,000 will be paid in cash, and \$400,000 in goods (powdered milk) in 1969; the whole contribution in 1970 will be in goods (powdered milk).

The Government of Denmark has, subject to parliamentary approval, pledged \$9 million for 1969 - 70. In the previous three-year period Denmark made a total contribution of \$7.2 million. The Danish contribution consists of one third in cash and two thirds in agricultural products. As to the Food Aid Convention, Denmark's contribution is 0.6% or 27,000 tons a year.

France has participated from the beginning in the World Food Programme, to which she contributes annually 5 million francs (\$1 million). One third is paid in cash and two thirds in kind (cereals, sugar, dairy produce). The French Government does not intend to alter this amount for 1969 and 1970.

The Government of the Federal Republic of Germany was from 1966 to 1968 among the most substantial contributors to the World Food Programme. In 1969 and 1970 this will probably again be the case.

For the three-year period 1966 - 1968, the Government of Ireland contributed \$4.7 million to the World Food Programme, one third of which was in cash and two thirds in agricultural produce. The Irish Government has, subject to parliamentary approval, pledged \$2.3 million to the Programme for the two-year period 1969 - 1970.

As in the past, the Italian Government has pledged itself to contribute \$1 million for 1969 - 70. As to point 9 (b), it is recalled that the Italian authorities are bound to take into account the decisions adopted in this respect within the Community. Regarding point 9 (c), the Italian National Committee of FAO has already notified the Italian authorities that the Executive Director of WFP would be submitting proposals on this subject at the meeting of the Intergovernmental Committee for WFP now being held in Rome. Finally, the Italian National Committee for FAO has always given its support to initiatives designed to ensure the closest co-operation between WFP and other multilateral and bilateral aid programmes.

Malta is a recipient of assistance under the Programme, but she also contributes to the Programme. But in view of her financial and economic difficulties, Malta has so far been able to make only annual token pledges to the Programme.

The Government of the Netherlands contributed 6 million florins to the World Food Programme in 1966, 7.2 million florins in 1967 and 8.4 million florins in 1968. The Netherlands

Government has pledged 13 million florins for each of the years 1969 and 1970 subject to parliamentary approval. The uncollected parts of the Netherlands contributions for the last three years will remain at the disposal of the World Food Programme.

The Government of Norway's annual contribution to the World Food Programme in the pledging period 1966 - 68 was 11 million Norwegian crowns. The contribution is one third in cash and two thirds in foodstuffs. Moreover, in the present year Norway is making an additional contribution of about 3,000 tons of stockfish to different projects under the World Food Programme. For 1969 - 70 Norway has pledged a total of 22 million crowns (about \$3.08 million) to be divided equally between the two years.

The Government of Sweden contributed \$2 million for 1966 to the World Food Programme and \$3 million annually for 1967 and 1968, and was thus, relatively speaking, one of the main contributors. For 1969 - 70 Sweden will, subject to parliamentary approval, contribute \$6 million. An increase of this amount could be considered if the World Food Programme was extended to include contributions to facilitate production.

The appropriation granted by the Federal Chambers to the Federal Council for international mutual assistance projects covers a period of three years (1967 to 1969). The Swiss authorities have therefore been unable to commit themselves in regard to the World Food Programme in 1970, or contemplate an increase in their contribution during the present three-year period.

The contribution undertaken by the Government of Turkey to the World Food Programme amounted to \$20,000, 40,000 and 40,000 for the years 1966, 1967 and 1968 respectively. The amounts of 1966 and 1967 have already been paid. The Turkish contribution for the period 1969 - 70 was decided at the World Food Programme Conference held in New York on 8 January 1968, and amounts to \$100,000.

The competent Turkish authorities intend to pay this amount in two instalments of \$50,000 each year. In the three experimental years preceding 1966, Turkey contributed a variety of

foodstuffs to the World Food Programme. The Turkish contributions figure in the annual budget of the Ministry of Foreign Affairs and are transferred in Turkish pounds to the account of the representative of the World Food Programme; these amounts are then used locally to defray the costs of purchasing food products to be allocated to other countries.

The Government of the United Kingdom made a cash contribution of \$3,100,000 to the World Food Programme in the three-year period 1966 - 68, and in addition made available dried eggs and dried skim milk to the same value. The amount of the United Kingdom contribution for the two-year period 1969 - 70 has not yet been finally settled.

With regard to paragraph 9 (b) of Recommendation 515, the Committee of Ministers recalls that at the 14th General Conference of the Food and Agricultural Organisation held in Rome in November 1967, the British delegation suggested that consideration should be given in the Inter-governmental Committee to the addition of inputs to the commodities to be handled by the World Food Programme. Other member governments concurred with this suggestion, as it would enable countries that could more readily afford to contribute in food production resources than in actual food to increase their contribution to the World Food Programme considerably.

With regard to paragraph 9 (c) of Recommendation 515, it should be noted that the annual food aid of 4.5 million tons of grain decided on in the context of the Kennedy Round for three years had been incorporated into the new Convention on Food Aid. According to this convention the European Economic Community and its member states have agreed to undertake 23% of the total aid, i.e. 1,035,000 tons. Although certain states take the view that this contribution should be made through the intermediary of the World Food Programme, the Community had not yet decided whether its contributions should be made in this way or by the Community itself or by member states individually.

With regard to paragraph 9 (d) of Recommendation 515, the Committee of Ministers is in full agreement with the Assembly on the necessity for close co-operation between the multilateral and bilateral organisations involved in the World

Food Programme to ensure the most efficient use of the resources available for the benefit of donor and recipient states alike."

This reply will appear in the next Communication from the Committee of Ministers to the Assembly.

### XIII. The functions and future of the Council of Europe Recommendation 516

(Concl. (68)168, Point III A (k), and Doc. Misc (68) 8)

The Deputies resumed their consideration of Recommendation 516 of the Assembly.

The representative of *Switzerland* said he wished first of all to place Recommendation 516 in its setting. He noted that it corresponded only in very small part to the opinion on the Work Programme for 1967 - 68, which the Committee of Ministers had invited the Assembly to deliver by its Resolution (67) 9. Only one point in the recommendation's operative part, viz. paragraph 11 (iv) referred to a list of suggestions by Assembly committees in the appendix to the recommendation. It was to be noted that this list comprised only a limited choice, the reasons for which were not obvious from the suggestions.

As for the basic report - which talked of planning the future of Europe as a whole - although such an idea seemed attractive, it was nevertheless based on forms of co-operation whose fragility had recently been illustrated by the difficulties which certain technical organisations were now experiencing. In other words, relying solely on conferences of technical ministers involved a risk which seemed an undue one. That being so, there must remain political options which, in the final analysis, were a matter for Foreign Ministers. The latter, by virtue of their functions, were the essential instruments of co-ordination at national level for whatever had to do with questions of an international nature. Nevertheless, Foreign Ministers could also act as the spokesmen of the technical ministers thanks to the institution, at national level, of interministerial conferences or through the consultations which Ministries of Foreign Affairs held with the interested technical ministries.

The reason why he (the representative of Switzerland) was dwelling on the role of Ministries of Foreign Affairs was that the Schulz Report proceeded on this subject from an incomplete assessment which led it to pass judgment on the role of the Committee of (Foreign) Ministers and propose changes in structures and methods without allowing for the fact that the Committee of Ministers surrounded itself by intergovernmental committees of technical experts in order to act with a full knowledge of the facts.

The Assembly was proposing making conferences of technical ministers responsible for the Work Programme and its supervision. The Swiss delegation shared the view expressed by the representative of Belgium (168th meeting), who feared the fragmentation of the Council of Europe and further confusion among the European institutions. Why try to superimpose ministerial conferences on committees of technical experts which did their work without the time-wasting inherent in large conferences ?

As the Secretary General had said in the Assembly debate on the Schulz Report, the drawing up of the Work Programme had already largely anticipated the Assembly's wishes, as it was a "dynamic", a working perspective which extended several years into the future. It could generally be said, moreover, that the Work Programme for 1968 - 69 took account of the Assembly committees' suggestions (except those of the Committee on Agriculture) in Part II of Document 2273.

The representative of the *United Kingdom* said that his own observations were very close to those of his Swiss colleague, which contained many useful points for the reply to the Assembly.

The representative of *Italy* said that his country's authorities had studied the suggestions made by the Legal Committee in Part II of Document 2273 and had given particular attention to the one in point 2 (e) of the appendix to Recommendation 516 regarding the possibility of creating, on the analogy of the Law Commission for England and Wales, a European Commission of eminent independent jurists to study European law as a whole with a view to amending, codifying and simplifying it.

This was undoubtedly a proposal of great interest both from an academic point of view, in all fields of public and private law, and as regards the organisation and co-ordination of the Work Programme. For these reasons, the Italian Ministry of Justice had expressed itself in favour of putting the proposal into effect, while pointing to the need for the European Commission to be representative, in its membership, of all the branches of law affected by the project and to be organised in study sections by subject so that its work could go ahead smoothly

The representative of *Norway* said that the recommendation was still being studied by his country's authorities but that it already seemed that their attitude would be less negative than that of the Swiss authorities.

The representative of *Austria* also thought that the Swiss statement seemed too pessimistic. He wondered whether it would not be appropriate for Recommendation 516 to be discussed by the Joint Committee at deputy level. On the other hand, the suggestion made by the Assembly for a meeting at ministerial level seemed to him to be inopportune. It was true that the Schulz Report contained factual errors (such as in paragraphs 98 and 108) which might be cleared up, but it did contain suggestions concerning technical co-operation and forecasting which might be discussed.

The representative of *Sweden* mentioned an interministerial meeting which had been held in Stockholm the week before to discuss Recommendation 516 and the Schulz Report. On some points the conclusions reached had been fairly close to the Swiss views. Thus it was difficult to see how some fields, such as forecasting, could be thought suitable for action by the Council of Europe; they were more a matter for OECD, the Economic Commission for Europe and private institutions. However, some participants had been in favour of conferences of technical ministers. It had been pointed out, for example, that the Conference of Ministers of Justice gave a real impetus to the CCJ. This might be due to the fact that the Council of Europe was virtually the only organisation working in the legal field, where it might, incidentally, follow the example of Nordic co-operation in the exchange of information on legislation projects. It was generally agreed at the meeting

that the work of the Council of Europe in the legal field would particularly benefit by being directed by the responsible ministers. Before contacting the Assembly in this important matter, it was in the view of the Swedish delegation important to co-ordinate the opinions of all intergovernmental organs concerned.

The representative of *Greece* stated that the recommendation was still being studied by the Greek authorities; in consequence his instructions were only very fragmentary. For his part, he was not in favour of the institutionalisation of ministerial conferences. On the other hand, there were points of the recommendation on which one could take a less negative view. The reply to the Assembly could be a balanced one.

The representative of *France* thought that the Assembly ought to be given credit for pointing out that the Council of Europe's place in the European scheme of things should be ascertained. In this respect, the four fields mentioned in paragraph 10 (d) of the recommendation were important. On the other hand, the idea of revising the Work Programme on the lines of long-range forecasting was a piece of theorising. Equally, the new structures proposed would result in the Committee of Ministers losing its function of watching over the committees of experts, and could even place the Statute of the Council of Europe in jeopardy. As to the so-called "tensions" between different ministries, in France at least, interministerial conferences enabled these to be resolved. The Assembly was proposing a surgical operation, whereas it was only a question of overcoming growing pains.

The representative of the *Netherlands* thought that the Assembly had not given enough attention to the political reality of the situation in Europe. The Council of Europe could, of course, play its part in this field, but other organisations were equally important. Moreover, a political will to entrust the Council of Europe with activities in the fields of forecasting or technological co-operation was not clearly apparent; other organisations were already engaged in these fields. Finally, the idea of institutionalising ministerial conferences seemed to meet with little response from governments. Even so, the recommendation contained a number of suggestions towards which more positive attitudes were warranted; the reply to the Assembly would have to reflect this.

The representative of *Turkey* also felt that Document 2273 contained interesting points which his government were still studying. However, the institutionalisation of ministerial conferences appeared to be contrary to the Statute of the Council of Europe. If the committees of experts came to be subordinated to such conferences, the Committee of Ministers would be deprived of valuable assistance. Besides, some member states would have practical and institutional difficulties, as not all the items on the agendas of the proposed conferences would be the responsibility of the same Ministry. Paragraph 11 of the recommendation, moreover, envisaged a preponderant role for the Consultative Assembly in relation to the ministerial conferences. A change of this kind would upset the balance of Article 10 of the Statute, which was a key element of the organisation. As the Secretary General had said, long-range forecasting ought not to be left to one international organisation. It ought to be entrusted to a foundation supported by international organisations, universities, governments and private institutions. With regard to the "technological gap", the representative of *Turkey* considered that it was desirable for the Council of Europe, as an essentially European organisation, to undertake this essentially European task, as a matter of urgency.

Referring to the statements of his Austrian and Turkish colleagues, the *United Kingdom* Representative observed that the Assembly's proposals raised constitutional issues which it was not for the Deputies to discuss with parliamentarians. It was, moreover, necessary to avoid resorting to the Joint Committee whenever the Assembly made any proposal: the customary procedures of correspondence and private talks should normally suffice.

The *Secretary General* did not think the reply to Recommendation 516 need present such serious difficulties as might appear at first sight. He agreed with the Netherlands Representative that the constructive aspects of the recommendation should be stressed without dwelling too much on its inadequacies. The Committee of Ministers should begin by firmly defending its own methods of work. The reply might then go on to make it clear that a substantial number of the Assembly wishes had been satisfied, for instance in the new Work Programme.

Forecasting was assuredly an important matter for Europe, and the Committee of Minis-

ters might thank the Assembly for having called their attention to this gap in the equipment of Europe for modern times, while asking it to indicate clearly what specific measures might be taken in that field.

Ministerial conferences were an effective and inexpensive instrument, but it would be a mistake to seek to institutionalise them. None the less, it must be admitted that they performed a function that was not fulfilled by committees of experts. Their agenda included essentially political questions on which experts were not qualified to give an opinion.

The Legal Committee had suggested the creation of a European law commission. The Secretary General intended to point out at the Conference of Ministers of Justice, which would be held in London in the near future, that the Council of Europe possessed a coherent system of co-operation in the fields of human rights and criminology, but not in that of civil law. He would suggest that they remedy this situation. On the other hand, if it was difficult to apply as between eighteen countries the system in force among the Scandinavian States, progress was certainly possible in the sphere of information on draft legislation.

In the field of science policy and technological co-operation, the Council of Europe, like all the other organisations, could only play a well-defined part. This was a question of co-ordination, on which the Secretary General would comment when presenting the Work Programme to the Committee of Ministers.

Lastly, with regard to the Joint Committee, he thought it was at the level of the Deputies that Recommendation 516 ought to be discussed, for they were the real experts in the working of co-operation machinery at European level. If the question were to be placed on the agenda of a Joint Committee at ministerial level, this would have to be meticulously prepared and the discussion limited to a very few points.

The Deputy Clerk of the Assembly observed that, although the recommendation referred to the Schulz Report at point 11 (iv), the Assembly could be held responsible only for the recommendation itself. The reply should therefore be confined to matters contained in the recommendation.

The Deputies agreed to return to Recommendation 516 at the 172nd meeting on the basis of a document to be prepared by the Secretariat, taking into account the statements so far made. This text, instead of constituting a draft reply to the Assembly would be more in the nature of a framework for the future discussions and decisions of the Deputies.

#### XIV. Programme of Work Examination of the draft Programme 1968 - 69

(Concl. (68) 169, Point XVII (a) and Docs. CM (68) 8, 37, 50 and Addenda, 56, 60 and 65)

The Deputies concluded their examination of the draft Programme presented by the Secretariat. Their decisions, together with those reached at the 169th meeting, are reflected in the final draft (Doc CM (68) 68) which they agreed to submit for approval to the 42nd Session of the Committee of Ministers.

The following points were the object of particular observations :

#### Chapter II

##### *Registration of wills*

The inscription of this item was approved, on the proposal of the *Austrian* Representative, who was supported by his Swiss and Greek colleagues. The representative of the *Federal Republic of Germany* recorded his opposition to this project. Six delegations abstained.

##### *Organisation in London of a Colloquy on European Law (1968; 1969)*

The representative of *Belgium* made a statement which will appear as Addendum V to Document CM (68) 50.

The representative of *France* repeated his government's reservations regarding this question.

The Deputies then, by a majority, approved the inscription of this item under the new wording and with the new terminal date shown above, on the understanding that the Colloquy would take place on an experimental basis and that the CCJ should assess and report on its results at its next meeting.

*The Right to Privacy*, as affected by

(a) the press and other mass media ;

(b) modern scientific and technical devices : study of the advisability of preparing a recommendation to governments (1969 ; 1970)

At the request of the *Netherlands* and *Swiss* delegations, supported by others, the title of this point was amended to read as shown above (see also Item VIII).

### Chapter III

*Information Bulletin on Social Policy*

The Deputies decided that the Social Committee should give an opinion on the utility of this bulletin at its next meeting.

*Protection against dangers arising from the docking and unloading of vessels . . .*

*Health and safety committees and inspectors in enterprises*

*Organisation and administration of social welfare policy*

*Social accompaniment of special groups*

The representative of *France* expressed his reservations regarding all these points, which the Deputies decided to include in the Programme subject to confirmation.

### Chapter V

*Measures to combat air pollution*

The *Financial Controller* drew attention to the necessary limitations of the preliminary evaluation of costs prepared by the Secretariat and examined by the Budget Committee ; in any case this evaluation did not constitute a formal request for the grant of budgetary appropriations, which would be sought at a later stage and following the normal procedure. As regards the sum of Fr. 65,000 mentioned in connection with the study of the correlation between pollution and town-planning, this figure has been advanced on the basis of a misunderstanding. It seemed rather improbable that this sum would be necessary, even over the three years which the study was due to take.

The representative of *Switzerland* did not consider this explanation satisfactory and repeated his conviction that procedures must be followed permitting governments to assess accurately the cost of items included in the Programme of Work.

In the light of the uncertainty regarding the financial implications of the study of the correlation between pollution and town-planning (sub-point (iii) of this item), the Deputies decided to add the mention "subject to confirmation".

*New proposals by the CCJ and the Social Committee*

The Deputies decided not to modify the wording of the item "Measures to encourage the comparative study of the laws of European States and also the study of the provisions of European conventions and of the law of European organisations" so as to add a specific mention of bibliographies and translations as the CCJ had proposed (see Doc. CM (68) 57, Point 6, B)

It was made clear that the present title of this point authorises the CCJ to examine and to make proposals regarding any aspect of the problem which it considers useful, but entirely without prejudice to the attitude which the Committee of Ministers will adopt towards these proposals which must be judged singly and on their merits, having regard also to their financial implications.

The Deputies further decided to request the Secretary General to include among "Subjects under study in the Secretariat" the three questions which had been referred for opinion to the Social Committee, namely social tourism, the problem of paid employment after retirement, and the political, social and civic position of women in Europe.

The Deputies thereupon agreed to the terms of the draft Resolution on the Intergovernmental Work Programme 1968/69 (Doc. Misc. (68) 18 amended in the French text by the Corrigendum of 1 May 1968) which will be submitted to the Committee of Ministers at their 42nd Session.

The Deputies also discussed the publication of the Intergovernmental Work Programme for

1968/69. They approved the proposals made in Document CM (68) 65 for the printing of 26,000 copies of the Work Programme in the form of the booklet *Man in a European Society*.

The *Director of Information* stated that a more "conservative" distribution policy would be followed in the present year, and it was therefore hoped that the 26,000 booklets would suffice to meet all legitimate needs until a fresh edition was published. He also explained that, as indicated in paragraph 5 of Document CM (68) 65, a supplementary allocation of 68,000 FF under sub-head 32 C would be requested in accordance with the usual procedure. He recalled that the item relating to publication of the Work Programme had appeared in the Budget "pour mémoire" only, since at that time the form to be taken by the 1968/69 Programme had not been finally decided by the Deputies. It was hoped to alter the system for future years, and thus to remove the need to ask for a supplementary appropriation for this publication.

#### XV. Remuneration of specially appointed officials of the Council of Europe

(Concl. (68) 169, Point XXII (a), Letter D/1.515 of 18 March 1968, Doc. CM (68) 63 and Letter Ad/1.970 of 4 April 1968)

The Deputies gave further consideration to this matter in the light, among other things, of Letter Ad/L.970 of 4 April 1968, and adopted Resolution (68) 13, the text of which is to be found in Appendix 1, page 182.

#### XVI. Council of Europe Buildings Report of the Working Party to study the problem of Council of Europe Buildings

(Concl. (68) 169, Point XX (a), and Docs. CM (67) 76, 88 and 101)

The Deputies resumed their discussion of the proposals contained in the report of the Working Party instructed to study the problem of Council of Europe buildings.

The representative of *France* said that the competent authorities were at the moment carrying out a careful co-ordinated analysis of the proposals of the Working Party instructed to study the problem of Council of Europe build-

ings. Detailed discussions were being held at technical levels in order to ascertain exact needs, on the basis of which the French Government would decide what proposals it was in a position to make.

The Deputies agreed to adjourn discussion of this question until their 171st meeting.

#### XVII. Dates and places of forthcoming meetings

The Deputies have chosen the following dates for their forthcoming meetings :

42nd Session of the Committee of Ministers, Monday 6 May, at 9.30 a.m.

171st meeting of the Deputies, Monday 27 May, at 10 a.m.

172nd meeting, Monday 24 June, at 3 p.m.

173rd meeting, Monday 16 September, at 3 p.m.

174th meeting, Monday 28 October, at 10 a.m.

#### XVIII. Other Business

(a) Council of Europe buildings - Immediate needs of the Secretariat - Adoption of resolution authorising supplementary appropriations

(Concl. (68) 169, Point XX (b), and Doc. CM (68) 38)

In order to put into due legal form the decision already taken at their 169th meeting, the Deputies adopted Resolution (68) 14, the text of which is to be found in Appendix 1, page 183.

(b) Europe Day - Flying of flags on diplomatic buildings and consulates of member states of the Council of Europe on the occasion of Europe Day (Concl. (67) 164, Point XX and Letters D/4.950 of 6 October 1967 and D/2.175 of 17 April 1968)

The Deputies resumed their discussion of this question in the light of Letter D/2.175 of 17 April 1968.

The representative of *Switzerland* stated that the Swiss authorities would fly flags on Europe Day in Switzerland and in those countries which had declared it to be a "flag day".

The representative of *Italy* stated that both the national and Council of Europe flags would be flown from public buildings in Italy. As to the flying of flags on diplomatic buildings and

consulates, the Italian authorities would be prepared to follow the views of the majority.

The representative of *Denmark* recalled that in his country Europe Day was celebrated on 7 May and not on 5 May. Although it was not an official "flag day" there would be no objection to foreign diplomatic and consular buildings flying their national flag and the Council of Europe flag, although this would not be done by Danish diplomatic representations abroad.

The representative of the *United Kingdom* made the following statement :

"The United Kingdom cannot make Europe Day an official flag day, as official flag days are limited to events connected with the Royal Family. But British diplomatic missions and consular posts in other countries have discretion to follow local usage. Thus, if certain other member states of the Council of Europe decide to fly flags in their capitals on Europe Day, our missions will follow in this practice."

The representative of the *Netherlands* stated that Europe Day was celebrated in his country on a suitable day following 5 May, normally on 8 or 9. The decision to declare an official flag day could only be taken by the Netherlands Council of Ministers. Apart from flying the national flag on Netherlands national days, Netherlands diplomatic and consular missions abroad conform to local practice in the host country.

The representative of *France* stated that the French authorities saw nothing against the flying of the national or European flag on diplomatic buildings and consulates in the member states, if in the state in question 5 May had been declared to be an official holiday and if on that occasion flags were to be flown on public buildings.

The Deputies took note of the views expressed by delegations at the 163rd, 164th and at the present meeting. They considered that the final decision in the matter of flying flags on Europe Day was for the competent national authorities in each country. The Committee nevertheless decided to place on record that it was favourable to the principle that member states should fly national flags and also Council of Europe flags whenever these were readily

available, on all public buildings including consular and diplomatic buildings situated on the territory of a member state, on the occasion of Europe Day.

(c) **European Water Charter Launching Ceremony**  
**Transfer of funds**  
(Doc. CM (68) 52)

The Deputies noted that the President of the Assembly, and not the Secretary General, would be giving a reception on the occasion of the Water Charter launching ceremony on 6 May 1968. They authorised the necessary funds to be transferred from Vote I to Vote III of the Council of Europe Budget.

(d) **Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights - Discrepancy between the English and French versions of the draft Agreement**

The *Deputy Secretary General* and the *Director of Legal Affairs* recalled that the Deputies had decided at their 168th meeting (Concl. (68) 168, Point VIII (a)) to open the Agreement relating to persons participating in proceedings of the European Commission and Court of Human Rights for signature by member states on 6 May. They pointed out that, when preparing the original text of the Agreement for signature, a discrepancy had been found between the English and French versions of Article 2, paragraph 2, as given in Document CM (67) 180. That paragraph introduced an exception to the principle laid down in the first paragraph of Article 2 of immunity from legal process in respect of oral or written statements made before the Commission or the Court, and of documents or other evidence submitted to these bodies, in the event of their communication outside the Commission or the Court. Now the French version of Article 2, paragraph 2, read as follows : "Les dispositions du paragraphe précédent du présent article ne s'appliquent pas à l'égard des déclarations faites ou des pièces produits devant la Cour ou la Commission, par l'une des personnes visées au paragraphe premier de l'article 1<sup>er</sup>, qui les aura divulguées ou fait divulguer, en tout ou en partie, en dehors de la Commission ou de la Cour".

This implied that the waiver of immunity from legal process applied to the whole of the state-

ment or document or other evidence which had been communicated, even if only a "part" of the statement or document or other evidence was divulged.

The English version of the same clause read as follows : "The provisions of the preceding paragraph of this Article shall not apply in respect of any communication by or on behalf of a person referred to in paragraph 1 of Article 1, of these statements or documents or evidence, or any part thereof, outside the Commission or the Court."

The effect of this text was merely to confirm that immunity from legal process was not granted in respect of a communication made outside the Commission or the Court. This meant that those parts of the statements or documents or other evidence which had not been communicated would continue to be protected by immunity from legal process under Article 2, paragraph 1.

Furthermore, the French version of this provision stipulated that only a communication made by the person who was the author of the statement etc., came into consideration. According to the English version, on the other hand, the communication might have been made by a person (advocate or co-applicant) referred to in Article 1, paragraph 1, other than the author of the statement etc.

After a discussion during which keen regret was expressed over this incident, more especially by the Chairman of the Deputies and the

Secretary General, the Deputies decided to cancel the decision taken at their 168th meeting to open the Agreement for signature by member states. The Deputies also instructed the Secretariat to refer the problem to the Committee of Experts on Human Rights at its next meeting in autumn 1968, and to request the Experts to elaborate concordant versions of Article 2, paragraph 2. On the basis of the draft so amended, the Deputies will decide at a later date if and when to open the Agreement for signature by member states.

**(e) Sub-Committee of Specialists on Blood Problems  
Authorisation to meet in Helsinki**

The *Political Director* informed the Deputies of the possibility that at their next meeting in May, the Sub-Committee of Specialists on Blood Problems might be invited by the Government of Finland to hold their subsequent meeting in Helsinki in 1969. The *Political Director* recalled that the Deputies had decided in 1962 to authorise the sub-committee to meet outside Strasbourg in places which could provide special technical facilities. The sub-committee had met in past years in Rome, Berlin, Montpellier, Oslo, Berne and Vienna, and would hold a meeting in Istanbul this year.

The Deputies agreed that in the event of such an invitation being issued to the sub-committee by the Government of Finland there would be no objection to its being accepted.