

XIX. EUROPEAN CONVENTIONS AND AGREEMENTS - Intended reservation by the Turkish Government - (Concl.(76)253/XXX(a), CM(75)311, CM(76)31 and 34)

Introducing this item, the Chairman proposed to hold a "tour de table", concentrating on the legal aspects of the deposit and avoiding, if possible, political considerations which might lead to further dissidence between the three member States concerned. He referred to the opinion already expressed by the Directorate of Legal Affairs in CM(76)31 and to the views of the Turkish delegation as set out in CM(76)34.

The Director of Legal Affairs stated that he had nothing to add to the views put forward in CM(75)311 and CM(76)31.

The Representative of Turkey said that it was not his wish to provoke a debate. It had not been his intention for the note which he had addressed to the Chairman to be distributed as an official document but now he felt that he had little to add to this document, which was self-explanatory.

The Representative of France said that his delegation felt that the Secretary General should register the ratification of the Conventions by Turkey, as presented, and should notify the member States. The French delegation considered, in fact, that as a general rule the member States intended, in designating the Secretary General as depository, to entrust him with a technical and mechanical task which should be exercised in a neutral way. He stressed that this decision was taken for technical legal reasons and that it was appropriate, for the time being, to adhere to this aspect, the registration of the reservations by the Secretary General having no effect on their validity.

The Representative of Denmark also considered that the normal practice should be followed in this case, to the effect that the instruments of ratification should be accepted by the Secretary General and the member States duly informed.

The Representative of Austria pointed out that it did not seem to be customary for the depository to examine the content of reservations or declarations made on the occasion of the deposit of instruments of ratification, but felt that the Secretary General had acted legitimately in referring the question to the Committee of Ministers. The Secretary General

could now proceed to register the instruments of ratification. In fact, he was rather doubtful whether the character of the text communicated to the Secretary General could be considered as a legally relevant reservation, since it neither referred to any specific provision of the conventions nor did it concern contractual relations between States. It would therefore have to be regarded as a political declaration rather than as a reservation in the international law sense.

The Representative of the United Kingdom said that in his view also the normal practice should be followed and the Secretary General should be asked to notify Governments of the Turkish texts; individual Governments could then react as they thought of it. He hoped, however, that in drafting the decision of the Committee of Ministers giving appropriate instructions to the Secretary General, some of the points made by the Secretariat could be safeguarded, in particular regarding the position of Cyprus as a Contracting Party to the Conventions in question and the risk of setting a precedent with regard to other Council of Europe Conventions such as the Human Rights Convention. It should in his view be possible to draft the decision in such a way as to safeguard these points.

The Representative of Switzerland felt that it was necessary to separate not only the legal and political aspects of the problem but also to try and separate the legal aspects from practical considerations. His authorities had first examined the purely legal position and, independently of CM(76)31, had arrived at a similar position to that of the Secretariat. In particular, it was felt that if the Secretary General as depositary had doubts regarding an instrument of ratification he should ask for instructions from his superior authority, which was the Committee of Ministers. Perhaps the "misunderstanding" which had occurred arose from the fact that it was not too clear whether the Turkish texts should be characterised as reservations or as declarations and this was perhaps the start of the difficulties. By separating the two ideas a practical solution might be found.

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The Representative of Sweden said that his authorities felt that the Secretary General should have accepted and registered the instruments of ratification and notified the other Governments about the Turkish ratifications and "reservations" in accordance with the provisions of each Convention. So notified, the Governments would have been in a position to react in a way which they deemed appropriate. Further, it could in the opinion of the Swedish Government be questioned whether the Turkish "reservations" were really reservations in the technical sense and not rather declarations by the Government of Turkey in connection with the ratifications. If this view of the problem was accepted, the conclusion would be that the question should not have been referred to the Committee of Ministers, nor would there be any reason for the Committee to discuss the substance of the Turkish "reservations".

The Representative of Norway also felt that what was meant by the Turkish Government was really a declaration rather than a reservation. The Secretary General should register the instruments of ratification.

The Representative of the Netherlands agreed with the remarks of the Representative of France, but pointed out that his authorities were still studying the problem already raised concerning the character of the reservations and were considering whether they were in fact reservations or declarations and what action should be taken in respect of them.

The Representative of Luxembourg thought that the Secretary General should register the Turkish instruments and notify member States.

The Representative of Italy was also in favour of following the habitual practice of registering the instruments and notifying member States. His authorities also had doubts as to whether the reservations were really reservations as such.

The Representative of Ireland agreed with the Representatives of Austria and Switzerland that no fault could be found with the Secretary General for bringing the matter before the Committee of Ministers, but thought that the normal practice should now be followed and that the instruments should be duly registered. His authorities were in favour of an early solution being found since bilateral relations were involved.

The Representative of Greece pointed out that most, if not all, delegations had stressed that the form of the reservations might be thought of as a political declaration rather than a reservation in the strictly legal sense. Before he himself took a decision on the point, however, he would like to know if the Turkish delegation accepted this interpretation of their character. He also pointed out that they had not been formulated according to the normal practice in the instrument itself but in a separate letter and this was another legal aspect with regard to the validity of the reservation. It was necessary to be very careful since any decision would be creating a precedent and the Secretary General had been wise to be careful not to create a precedent himself. This was a multilateral Convention so that all States were responsible and Governments could not simply take an individual position. Now that the Committee of Ministers had been seized of the matter it was necessary for practical as well as legal reasons to take a collective decision. It would facilitate the discussion if the Representative of Turkey could say whether a political declaration or a reservation was in issue.

The Representative of the Federal Republic of Germany thought that the Secretary General should register the instruments as they were and inform the other signatory States so that they could take a position.

The matter should not be discussed at too much length here but should be settled as amicably as possible, without resulting in any change in the Council of Europe's attitude to Cyprus.

The Representative of Belgium agreed with the remarks made by the Representatives of Luxembourg, Ireland and the Federal Republic of Germany.

The Representative of Cyprus noted that the so-called reservation had been repeatedly referred to as a political declaration and this constituted the primary question for his authorities. If this was a reservation in the legal sense, then it was impossible for the reservation to be made since no provision was made for reservations in the Conventions in question. In this case, the Secretary General had acted correctly in informing the Committee of Ministers.

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If it was not a reservation, the Secretary General could accept a political statement from a Government without this having any effect on the deposit of the instrument as such. He had been impressed by the arguments that the so-called reservation was in fact a declaration and noted that a number of delegations had said that the instruments as such should have been accepted, but the question was whether the instruments should have been accepted complete with the so-called reservations. He thought that the point raised by the Swedish Representative was important, that it was necessary to act in accordance with the provisions of each Convention, which meant that if no provision were made for reservations, there could be no reservation.

The Representative of Turkey, in answer to the question put by the Representative of Greece, explained that the reservation made by his Government related to a declaration as to a political fact, which had often been repeated in the past at meetings of the Deputies and which it was clear that his Government had a right to make. In his view, the Secretary General should not now have brought the question before the Committee of Ministers since there was no "difference" within the meaning of Article 77, para 2, of the Vienna Convention on the Law of Treaties. He had already proposed a compromise solution to the problem which had arisen by emphasising that the Turkish position did not aim at the State of Cyprus as such, that it was provisional, and involved non-recognition of the Government on the grounds that it was not representative. The Secretary General should now immediately register the Turkish instruments as from 19 December so that States could communicate their views on the reservations or declarations.

The Representative of Greece said that it seemed that the intention was to make a political declaration. This did not reflect upon the State of Cyprus itself and could not affect the validity of the Conventions as a whole. The Committee of Ministers should specify that the validity of the Conventions would be preserved and that the position between Cyprus and Turkey should be settled between those States themselves. The position was a question of fact which would be the same with or without the existence of the declaration. The matter had been confused since the proper form had not been used for the making of the declaration and the misunderstanding should now be cleared up by an explanatory note from the Turkish Government.

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The Representative of Turkey wished it to be pointed out, however, that the Turkish authorities had chosen to call their statement a reservation and that this had been communicated in due form in an official letter. It was up to individual Governments to interpret the reservation as they wished and if they felt that it was not a reservation in the strict sense they were free to call it something else. From the point of view of the Turkish authorities, the reservation was a declaration of fact but this did not mean that it could not be called a reservation. He also wished to point out, with reference to the remarks of the Representative of Cyprus, a statement by the International Court of Justice in the Reservations to the Genocide Convention case to the effect that "it could certainly not be inferred from the absence of an article providing for reservations in a multi-lateral convention that the Contracting States are prohibited from making certain reservations".

The Chairman summarized the "tour de table" among 16 Representatives (Iceland and Malta absent) as follows:

3 delegations were close to the view of the Secretariat which had questioned the admissibility of the Turkish "reservations" and had asked the Committee to take upon itself the collective responsibility to decide on the Turkish reservations as to their legal or political aspects.

12 delegations shared the view of the French delegation that the Secretary General should register the Turkish instruments including reservations, this being a merely technical operation without prejudice to or effect on their validity, on which to decide and react would be due to each signatory State for itself.

Among this common view of 12, some additional remarks were made:

a. 8 delegations considered the declarations contained in the Turkish instruments not as reservations, but as political declarations, which should be registered as well.

b. A few delegations said that in their view the Secretary General had acted correctly in presenting the case to the Committee for opinion.

c. Others expressed the wish that a formulation should be looked for, which would not only correspond to the views of the majority, but also safeguard the position of Cyprus as a signatory State and avoid creating a precedent which could undermine the Council of Europe's multilateral instruments.

The Chairman expressed the wish to take a decision worded in such a way that it could be approved by the whole Committee including the three countries concerned. A first attempt by the Chairman around suggested formulations agreed to by the Director of Legal Affairs appeared to be too complicated. The Director of Legal Affairs was asked to prepare and to circulate another draft by the end of the week in co-operation with the Representatives of Greece and Turkey in order to give Governments the opportunity to study this draft over the week-end.

This draft of the Director of Legal Affairs, with which, according to a written statement of the Secretariat, the Representatives of Greece and Turkey were not in a position to record their agreement, read as follows:

"The Deputies,

in the light of the foregoing discussion, and referring solely to the procedural aspects of the deposit of the seven instruments of ratification,

instructed the Secretary General to proceed, with effect from 19 December 1975, to the registration of these instruments of ratification as presented by the Permanent Representative of Turkey by letter dated 19 December 1975 and to notify the Governments of member States thereof."

When this draft was circulated among the Representatives, the Chairman said that in his opinion this proposal would accord with views of the Committee as expressed during the "tour de table" only if a phrase were added to clarify that the registration had no legal effects for the so-called Turkish reservations (validity, admissibility, etc.). He proposed, therefore, to have a supplementary phrase after the text of the Director of Legal Affairs: "... it being understood that the registration does not imply any decision on the legal validity of the Turkish reservations" (the French text he proposed "... étant entendu que cet enregistrement n'a aucun effet sur leur validité" was not an exact translation of the English).

Resuming the discussion on 16 February, the Chairman repeated that, according to the summary he had given after the "tour de table", the Committee - with the exception of Greece, Cyprus, Turkey and Switzerland - refused to take a decision on the political and legal aspects of the Turkish declarations presented as reservations. In the opinion of the Committee, which followed the French Representative's statement, the registration was to be regarded as a technical operation which should be executed by the depositary and which would have no legal effects on the admissibility of the registered documents.

The Turkish Representative described as very grave any new decision to postpone discussion of the question of the Turkish reservations and said that the consequences of such a decision would be irreparable.

He recapitulated the discussion of 10 February 1976 which had led the 14 Representatives to consider, in principle, that the Secretary General should register the instruments of ratification and the Turkish "reservations" without delay, and made the following statement:

"After having heard the various interventions at the Deputies' meeting on 10 February 1976 on the question of the reservations made by the Turkish Government concerning the seven Council of Europe agreements, protocols and conventions, I feel that certain clarifications are necessary on the following points in order to dispel any misunderstanding regarding their interpretation:

1. These reservations are made in the form of a notification in writing from a member Government informing the depositary of a provisional attitude adopted.
2. They are concerned exclusively with the suspension of the application of these agreements, protocols and conventions as between Turkey and Cyprus and in no way affect the validity of these agreements, protocols and conventions in respect of the other Contracting Parties.
3. The Governments of the Contracting Parties remain free to communicate to the depositary, in accordance with the bilateral procedure, their opinions on the Turkish 'reservations'.

In the light of these explanations and of the discussion held in our Committee, which led the Deputies to consider - having regard to the role and functions of the depositary - that the Secretary General should make the registration in question with effect from 19 December 1975, I ask you, Mr Chairman, to give the Secretary General instructions - on the Committee's behalf - to register the instruments of ratification of the said agreements, protocols and conventions, and the appended reservations without delay, taking 19 December 1975 as the date of deposit, and to duly inform the other Contracting Parties."

The Representative of Turkey added that he could, if necessary, hand the Chairman a letter containing these explanations.

He explained that this Government had already agreed to the draft decision prepared by the Director of Legal Affairs, but that the new amendment proposed by the Chairman had not been approved by his Government because it was liable to give rise to misinterpretation.

The Representative of Cyprus said that, on instructions, he would like to make the following statement:

"Turkey by its intended reservation has attempted to achieve in another way what it has failed to achieve in other instances.

You all remember the objection that was put forward by the Government of the Republic of Turkey with regard to the recognition and representativity of the Government of the Republic of Cyprus. You will also remember that this objection was unanimously rejected by the Committee of Ministers.

In fact not only the Committee of Ministers of the Council of Europe but all other international bodies, before which Turkey had raised the same objection, had rejected the Turkish position. In this connection I would only like to mention the decision of the Human Rights Commission as to the admissibility of Applications Nos. 6780/74 and 6950/75 by Cyprus against Turkey. By its decision, the Commission rejected the Turkish objection as to the locus standi of the applicant Government. I do not wish to take up the Committee's time by reading extracts from the Commission's decision.

Now, Turkey by its attempt to register these "reservations" is trying, in an indirect way, to achieve some kind of recognition of its position as regards one of the High Contracting Parties to the 7 Conventions in question.

My Government is of the opinion that the Secretary General although he could have informed the Permanent Representative of Turkey at the time when the Instruments of Ratification were put before him, that they were not duly presented because no provision was made in the Conventions in question as to reservations, nevertheless in my Government's view he acted prudently. He brought the matter before the Committee of Ministers which "being made up of Representatives of each of the member States, but acting collectively, performs a number of functions in relation to the treaty instruments it has drawn up. In addition to decisions concerning opening for signature and any invitation to non-member States of the Council of Europe, the Committee of Ministers performs a treaty function with regard to the interpretation or even the subsequent further elaboration of the provisions of several of these instruments".

In the course of the preliminary examination of this problem by this Committee last week it was rightly stated by a number of delegations that these intended "reservations" could only be considered as political declarations. No delegation, and on this point confirmation either by the Chairman or the Secretariat is kindly requested, stated or

argued that these declarations could be considered as legal reservations made in compliance with the provisions of the Conventions in question. In fact not even the Turkish delegation itself stated that they were, legally speaking, reservations. The Turkish delegation clearly stated "these are not reservations, they are declarations or positions" and on another occasion the Turkish delegation said "we call them reservations, you can call them whatever you like".

Now this is the crux of the whole matter. It has to be clearly and definitely ascertained if these declarations are to be considered and treated as legal reservations duly presented.

This is absolutely a must because the instructions to be drafted for the Secretary General will depend on the answer to the above question. This delegation would therefore like to request the President to clarify the situation by putting the question to a vote, in other words to ascertain whether delegations consider these declarations as reservations in the legal sense or whether they consider them as declarations of a political content.

Once this is clarified then this Committee could proceed with the drafting of its instructions to the Secretary General.

In the course of the preliminary examination of this problem it was expressly stated by certain delegates and implied by others that the position of the High Contracting Party involved, namely the position of the Government of the Republic of Cyprus, should be protected. This should not be difficult once we know what Turkey is aiming at.

My Government wishes me to draw this Committee's attention to the fact that the preamble to the instruments contains a specific reference to the aim of the Council of Europe as expressed in Article 3 of its Statute ie "to achieve a greater unity between its members" and in the realisation of which each member has undertaken to "collaborate sincerely and effectively".

One of the means for realisation of the Council's aim is the elaboration of Conventions binding on all member States. It is inconceivable that one member State by the pretext of intended reservations to a number of Conventions presents serious obstacles to the realisation of the Council's aim rather than contributing to "greater unity between its members".

Further, my Government has asked me to remind the Committee that unlike United Nations practice, a European Convention or agreement cannot be opened for signature until it has been expressly established that there is no opposition within the Committee of Ministers.

In conclusion and having regard to the comment made by the Secretary General in (ii) of page 3 of CM (75)311 that "a reservation of this type could have important implications on the general level of treaty relationships between members of the Council of Europe, which are governed by treaties concluded within the framework of the Organisation

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pursuant to Article 15 of its Statute", my Government is confident that the Committee of Ministers being the highest organ of this Council will take upon itself, as it has always done in the past, its responsibilities that derive both by the Statute and by its numerous and valuable Conventions.

In conclusion, I wish to repeat my formal request of ascertaining by way of a vote as to whether the declarations made by Turkey are to be considered and treated as legal reservations or as political declarations. The answer to this question will reduce the problem in its dimension, in a way that will make the Committee's task infinitely easier.

As regards this Committee's instructions this Delegation wishes to submit that it should contain the following points:

1. Instruct the Secretary General to register the Instruments of Ratification in question.
2. The position of this Committee with regard to the nature of these declarations to be ascertained by a vote.
3. The fact that the position of the Government of the Republic of Cyprus is not affected in any way by the Turkish Declarations.
4. That such declarations cannot and do not have any implications on the general level of treaty relationships between members of the Council of Europe and
5. That no precedent is created."

The Representative of Turkey protested against Mr Pilavachi's having distorted his statement concerning the Turkish reservations and stressed that he had said in so many words that for the Turkish Government these were "reservations" and that the other governments were free to consider them as declarations or notifications.

The Representative of Greece, referring to paragraph 9(1)(g) of the Rules of Procedure of the Ministers' Deputies (Article 20(a)(vi) of the Statute), suggested that the decision of the Committee might be taken unanimously, in view of its great importance. The decision would have legal and possibly political implications, and would therefore need a great deal of reflection. There did not, in fact, seem to be any great urgency in the question being discussed, since the conventions and agreements which Turkey wished to ratify were not of such a serious character and some of them had been signed several years ago.

The Representative of Austria felt that it would be preferable to attempt to find a consensus within the Committee before going on to discuss procedural matters.

Agreeing to this approach, the Representative of Switzerland asked the Secretariat whether the text prepared by the Director of Legal Affairs had been prepared in consultation with the Representative of Turkey, because, if so, it seemed that the disagreement between the Secretariat and the Government of Turkey had been resolved, and there would thus be no need to discuss the problem any further. The decision would simply be based on this text.

The Secretary General said that, having submitted the question to the Committee of Ministers, as he had to do, he would be very happy if the Committee could find a compromise solution which would benefit the Council of Europe as a whole. Without a clear decision by the Committee, it would be impossible for the Secretary General to proceed to the registration of the Turkish Instruments of Ratification. There was a proposal by the Director of Legal Affairs before the Committee which could be debated and might form the basis of a suitable compromise.

The Chairman replied that the Secretary General who had just insisted again on the Committee of Ministers taking upon itself its collective responsibility regarding the admissibility of the Turkish reservations, had unfortunately not been present when the "tour de table" was taken five days previously. 12 delegations, following the French line, had taken the view that the deposit was only a technical operation and that neither the Secretary General nor the Committee of Ministers had the power to decide on the validity or admissibility of any reservation. This remained the individual prerogative of each signatory State. The Secretary General's interpretation of the formulation put forward by the Director of Legal Affairs did not correspond to the opinion of the majority. Therefore, it required in the operative part an additional phrase, clarifying that the deposit of the Turkish declarations (presented as reservations) did not have any effect on their validity.

The Director of Legal Affairs pointed out that he had never expressed any view as to the legal validity of the declarations called "reservations" but had given an opinion as to their possible scope. He had stressed the need to preserve the collective character of conventions drawn up within the Council of Europe, especially the Human Rights Convention and the Social Charter and the power of the organs created by these instruments to take a stand on the validity of every reservation concerning them. In preparing the text of a draft decision he had attempted to adhere as closely as possible to the views expressed by the Deputies during the "tour de table". The text was centred around the intervention by the Representative of France, stressing the technical and mechanical nature of the task of the Secretary General as depositary, which explained the reference in the text to the procedural aspects of the deposit of the seven instruments of ratification. At the same time, the scope of the text was restricted to these seven instruments, whose implementation belonged to the context of bilateral relationships. Since, in the course of the "tour de table", some variations had been presented by different delegations, some of which had important legal consequences, the text also referred to the foregoing discussion, which included points such as whether the so-called reservations were really reservations or whether they were in fact political declarations.

Nothing was said in the text as to the validity of the conventions concerned or as to the capacity of a State to be considered as a Party to these conventions, since only the procedural aspects were dealt with. The text therefore provided no basis for any argument going beyond the legal technique of registration or entering into the legal effects of the reservations, the position of Cyprus as a Contracting Party or the position of Cyprus in the Committee of Ministers.

Following a proposal by the Chairman to proceed to a discussion of the proposals for a draft decision, the Representative of Cyprus said he would like to submit a further paragraph to be added to the text prepared by the Legal Director, in the light of the statement which the Legal Director had just made. This paragraph would read: "The above decision will in no way affect the position of the Government of the Republic of Cyprus in the Committee of Ministers of the Council of Europe."

The Chairman proposed to enter then into the substance of the wording of the decisions; according to the regulations the deliberations had to begin with the additional amendments to the original text proposed by the Director of Legal Affairs, that is, at first, with the Chairman's proposal for an additional phrase.

With regard to the proposal of the Chairman to add to the second paragraph: "it being understood that this registration would not prejudice the question of their validity", the Director of Legal Affairs said that he was of the opinion that such an addition was not necessary in view of the express statement that the draft decision would deal only with procedural aspects.

The Representative of France suggested going back to his original text which would involve adding the clause: "it being understood that the registration of reservations by the Secretary General has no effect on their validity."

The Chairman agreed to the French proposal which corresponded to the original text in the French version. This wording was of general application to reservations connected with the ratification of international conventions; it would not be exclusively directed to this case of the Turkish reservations.

The Representative of Turkey said that he interpreted the new form of the French amendment as the statement of a principle and not as specifically concerning the Turkish reservations in question. He suggested adding after the words "their validity" the words "and their non-validity".

He thanked the Chairman of the Committee for his approval of the amendment and regretted its rejection by the French Representative who had said that "registration would not prejudge the non-validity" and that in French one could not, in this phrase, say "their validity or their non-validity".

An indicative vote on the Chairman's amendment, as amended by the Representative of France, showed 12 delegations in favour, 2 against, with 2 abstentions.

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Explaining his vote, the Representative of Turkey said he had abstained because he wanted immediate, unconditional registration, but the wording of the French amendment did not entirely satisfy him; he had nevertheless taken due note of the French Representative's explanations, confirmed by the Chairman, making it clear that it was not a question of the "Turkish reservations" specifically, but the registration of reservations in general and in principle. In view of the turn the discussion had taken, he no longer proposed handing the Chairman the letter containing the explanations he had given at the beginning of the sitting.

Turning next to the proposed amendment by the Representative of Cyprus, to add a further paragraph to the text, the Representative of Turkey said that this had nothing to do with the question under discussion. He was thus opposed to the addition of this paragraph. He added that by making this request Mr Pilavachi was merely expressing doubt as to the legitimacy of his presence in the Committee and was taking advantage of this opportunity of renewing his insurance policy which the Turkish Representative hoped would be a short-term one.

An indicative vote on the Cyprus proposal showed 13 votes in favour, 1 against, with 2 abstentions.

Explaining his vote, the Representative of Italy said that his abstention did not put in doubt his view that Cyprus was validly represented on the Committee of Ministers but he did not think that the amendment would help to find a consensus.

The Representative of Luxembourg said that he had abstained because he felt that the amendment added nothing, but he would of course, be in a position to support the text as a whole.

The Representative of Turkey explained that although he had abstained from voting on the first amendment, he would now vote against that amendment.

The Representative of France proposed a further amendment to the second paragraph of the text, in suggesting that the phrase "instructed the Secretary General to proceed" should be replaced by the phrase "considered that the Secretary General should proceed".

The Director of Legal Affairs said that he would prefer a clear instruction to be given by the Deputies, in order to resolve any doubts arising from their discussions, but he would not object to the French proposal it being clear that even that text contained a clear guideline for the Secretary General. On an indicative vote, 11 delegations voted in favour of this amendment, 1 against, and 3 delegations abstained. The Representative of Turkey did not participate in the vote.

The Representative of Cyprus proposed that following the phrase "considered that the Secretary General should proceed", should be added the phrase "in accordance with normal international practice".

The Representative of Greece questioned whether this would refer to international practice in general or simply to the normal practice of the Council of Europe.

The Representative of Cyprus then withdrew his proposed amendment, which was taken up by the Representative of Ireland.

The Director of Legal Affairs pointed out that no uniform international practice in fact existed and that it would be dangerous for the Council of Europe simply to follow the practice of another organisation such as the United Nations, since this would fail to allow for the particular features of each Organisation. There was no need to say any more in the text than was absolutely necessary, and in any case the text should not open the door to further ambiguities.

After the Representative of Ireland had altered the wording of his proposed amendment to read "in accordance with general international practice", an indicative vote showed 6 in favour of the proposal, 1 against, with 8 abstentions. The Representative of Turkey did not participate in the vote.

The Representative of Cyprus explained that he had abstained from voting since he had not been able to submit the proposed amendment to his Government, though he had a lot of personal sympathy for the proposal.

With regard to the proposal by the Representative of Greece to vote to decide the matter unanimously, the Director of Legal Affairs pointed out that much more important questions had arisen in the past (concerning, for example, the suspension of a member) but the procedure for taking such a unanimous vote had never yet been used.

The Representative of Greece remarked that a decision concerning the expulsion of a member was important in a negative sense, whereas here the question was important in a positive sense and involved the functioning of the whole system of conventions drawn up within the Council of Europe. It was in the interests of the Council of Europe to reflect well on the serious decision which would have to be taken.

The Representative of Turkey was opposed to the Greek proposal that this problem be considered -owing to its importance- as requiring the unanimity rule: in making his proposal, the Greek Representative was indirectly asking for the right to veto in the Committee of Deputies so as to be able to block any decision. He asked the Committee not to vote for the proposal.

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An indicative vote on this proposal by the Representative of Greece, showed 2 votes in favour, 8 against, with 6 abstentions.

The Representative of Cyprus proposed postponement of the discussions until the next meeting. The Chairman opposed this suggestion; the Turkish Government had presented their documents to the Secretary General on the 19th of December 1975, so that they could now justifiably claim that this matter should be brought to a final conclusion.

The proposal for postponement was rejected on an indicative basis with two votes in favour, two against and 12 abstentions.

A further proposal, by the Representative of Italy, to postpone discussion for two days, was shown on an indicative vote to have 3 delegations in favour, 6 against with 7 abstentions.

The Representative of Turkey expressed satisfaction at the Committee's voting against the proposal for postponement.

In a final vote, the Greek proposal to submit the text of a final decision to a unanimous vote was rejected, with 2 votes in favour, 5 against and 9 abstentions.

A final vote was then taken on the text of the draft decision prepared by the Director of Legal Affairs as amended by the Chairman's amendment, the amendment proposed by the Representative of Cyprus and the amendment proposed by the Representative of France. The text, as amended, was adopted with 13 votes in favour, 1 against, and 2 abstentions.

The Representative of Turkey explained that he had voted against the decision primarily on account of the last amendment made to the text on the representation of Cyprus on the Committee, which had always been rejected by the Turkish Government.

On the other hand, the first part of the decision to the effect that the Deputies considered that the Secretary General should make the registration, was acceptable without reservation.

His misgivings regarding the French amendment, despite the explanations given by its author, were due to the fact that its wording was liable to create ambiguity.

The Representative of Cyprus explained that he had abstained from voting since he had been instructed to submit any text to his Government before voting upon it, but this should not necessarily be interpreted as meaning that he was opposed to the text. He would inform the Committee later of his Government's reaction.

The Representative of Greece said that he attributed particular importance to this question and felt that insufficient discussion had taken place, particularly with regard to the powers of the Committee of Ministers in this case. Although the eventual result might have been similar, he would have preferred to have adopted the text of a decision after fuller discussion. He had therefore abstained from voting.

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The Representative of Turkey -replying to a question put by Mr Pilavachi- said he had voted against the decision but not against registration and that there was no question of his withdrawing the Instruments of ratification; quite the contrary, he intended going to the Secretary General as soon as possible to obtain the deposit certificates.

Decision

The Deputies,

in the light of the foregoing discussion, and referring solely to the procedural aspects of the deposit of the seven instruments of ratification,

considered that the Secretary General should proceed, with effect from 19 December 1975 to the registration of these instruments of ratification as presented by the Permanent Representative of Turkey by letter dated 19 December 1975 and notify the Governments of member States thereof, it being understood that the registration of reservations by the Secretary General has no effect on their validity.

The above decision will in no way affect the position of the Government of the Republic of Cyprus in the Committee of Ministers of the Council of Europe.