

c.

Resolutions of the Committee of Ministers
(Concl(78)295/VIII, CM(78)15, 96 and 278)

The Representative of Switzerland presented the proposals prepared jointly by his delegation and the Secretariat and set out in CM(78)278. He observed that they had two objectives.

The first related to form. For purposes of publicity, decisions of the Committee of Ministers were divided into three types: 1. Resolutions, which were public; 2. Decisions affecting committees, whose circulation was restricted to those concerned; 3. Other decisions, which were confidential. The first group, however, included both Resolutions containing recommendations and other Recommendations, whereas a formal distinction should be made between the two.

The second objective of these proposals was to demonstrate the achievements of the Council of Europe. In pursuing its aims, the Council had two main resources (Article 15 of the Statute): conventions and recommendations. The latter, although more flexible and less binding than the former, were nevertheless one of the Council's most important means of action and more prominence should be given to them under the information policy. A classified list of them by subject matter should be maintained, as was done for conventions.

The speaker explained that the Assembly might be informed once the system had been adopted, so that it could review the titles of its own Recommendations, which should, to avoid confusion, be called "Recommendation of the Assembly to the Committee of Ministers".

He concluded by thanking the Secretariat for its help and suggested that the proposals in CM(78)278 might be examined in the following order: firstly, parts I, II and III and the corresponding decisions (paragraphs (i) and (ii) of the draft decision); then, part IV and paragraph (iii) of the draft decision; and lastly, part V.

The Deputy Director of Legal Affairs said he was pleased that the Swiss delegation had undertaken to raise the question of Committee of Ministers Resolutions, thereby making it possible to return to the matter of their follow-up. Examination of the Secretariat proposals in this matter would presumably require more time than would the proposals in parts I and II of CM(78)278. With regard to the proposals relating to the system for examining action taken, he pointed out that the Committee adopted 30 to 40 Resolutions a year on average, and that in spite of the report clauses in them all, few or no reports were actually received from governments, for reasons which were generally known. In the hope of creating an effective system for the examination

of action taken on recommendations, it was proposed that they begin by making a list of Resolutions (part IV). In our rapidly changing society, many of these texts had lost their timeliness or had actually become obsolete, so it seemed desirable to draw up a list of those about which information should still be furnished. It was important to institute a system by which governments would be convinced that the effort involved in preparing detailed replies was not superfluous but represented, on the contrary, a useful contribution to the organisation's work.

Several delegations complemented the Representative of Switzerland and the Secretariat on the useful piece of work they had done.

The Representative of Luxembourg, who shared the Secretariat's opinion that both governments and Secretariat must not be overburdened with work, said he was prepared to adopt the proposals.

The Representative of Belgium added that although he had initially felt misgivings about the utility of these proposals, he was now convinced of the need for and great value of the joint achievement of the Secretariat and Swiss delegation, and congratulated them.

The Representative of Ireland hoped it would be possible to produce some concrete results on the basis of these proposals, and asked two questions. The first had to do with the publicity of Resolutions in the field of human rights and the second referred to the difficulty which the Secretariat might have in evaluating Resolutions as proposed in paragraph 13.3 of the paper.

In connection with the first question the Representative of Switzerland said that the Secretariat would probably be in a position to reply. With regard to the second, draft decision (iii) envisaged no more than instructing the Secretariat to draw up a list. If in doing so it included an evaluation, this would in no way commit the member States or the Committee, but it would facilitate the work to be done later by the steering committees and the Committee of Ministers. Moreover, he thought the French text might be clearer than the English.

The Deputy Director of Legal Affairs explained that under the proposed system the Secretariat's evaluation would be endorsed by the steering committees, in regard to the technical aspect, and by the Committee of Ministers in regard to the political aspect. Committee of Ministers Resolutions in the field of human rights were public.

The Representative of Italy said that his authorities were giving careful consideration to the proposals; however, they wondered whether some of the points in the excellent memorandum did not require more exhaustive examination in view of their consequences, that is, the extra work they would entail for the Secretariat and the renewed discussion on matters which, in the opinion of several delegations, had been settled (cf. paragraph 13.3 of CM(78)278). At this stage, the Italian delegation thought that this practical aspect should be borne in mind in considering what further progress could be made in the direction envisaged in CM(78)278.

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CM/Del/Concl(78)296
Item XXXII(c)

In reply to a question by the Representative of Cyprus, the Representative of Switzerland said that the Committee must choose once and for all between the three alternatives given in square brackets in the draft decision. He preferred the first which, although long, corresponded most closely to the Statute, but could accept the second or third.

The Representative of Cyprus, supported by the Representatives of Luxembourg and Belgium, expressed a preference for the other two, because they thought a clear distinction should be made between recommendations and resolutions.

In this connection the Secretary to the Committee mentioned that some members of Assembly Committee on Parliamentary and Public Relations had disagreed, on the ground that for 30 years a "Recommendation" had meant a text addressed by the Assembly to the Committee of Ministers. The parliamentarians would apparently prefer the Committee of Ministers to choose the first title, as being less likely in their view to create confusion.

Also on this subject, the Representative of Cyprus thought that the same risk of confusion might exist in respect of the word "Resolution", which was used by both Assembly and Committee of Ministers, and he accordingly wondered why the latter should not also employ the word "recommendation", which would give uniformity to the titles adopted by the Assembly and Committee of Ministers.

The Representative of Switzerland said that although he preferred the first title, with all its shortcomings, he could see that the second could hardly give rise to confusion between Recommendations of the Assembly to the Committee of Ministers and Recommendations of the Committee of Ministers to governments of member States, for the recommendations in the latter category were described in sufficiently specific terms.

Decision

The Deputies agreed to resume consideration of this item at their 297th meeting (December 1978 - A level).