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[Étienne Deschamps] Mr Gerbet, the Council of Europe was set up in 1949 following the signing of its statute in London. A great many hopes were invested in it in European circles and yet, after only a few years, it quickly disappointed its most ardent supporters. Why did this happen, and what were the main weaknesses of the Strasbourg institution?

[Pierre Gerbet] The Council of Europe was indeed the first European political institution to be created. This was shortly after the Second World War, after the conclusion of a military pact — the Brussels Pact — between the Five: France, the United Kingdom and the three Benelux countries, and after the Organisation for European Economic Cooperation had been set up. Both these organisations were technical organisations, each in its own field, and relied on cooperation between governments. Meanwhile, the European movements, which were very active after the Liberation, launched the idea of setting up a European political body.

At the Hague Congress, held from 7 to 10 May 1948 and known as the Congress of Europe, as it was a gathering of large numbers of activists for Europe, there were strong calls for the setting up of a European assembly consisting of delegates from national parliaments, so as to be able to discuss all the methods which could be adopted to lead to a genuine system of organisation for Europe.

The outcome of this was to be the Statute of the Council of Europe and the meeting of the Council of Europe in Strasbourg in the summer of 1949, a meeting attended by Winston Churchill which raised a great many hopes. Those hopes were fairly soon disappointed, to the great surprise of those who had backed the Council of Europe. Some were even expecting the Council to draw up a European constitution, and it was Léon Blum who invoked a lesson from history when he said: 'When will the Council of Europe become a constituent assembly?' It was obvious at the time, of course, that no government had any intention of going down the federalist path. Reconstruction was carried out within national frameworks as governments agreed to cooperate with each other and wanted nothing to do with setting up a Europe arising out of any aspiration of the people. What they wanted was to build it themselves by intergovernmental agreements between a number of them.

This explains why, when the Council was Europe was set up, a major ambiguity emerged: it was a Council of Europe, but in fact it was an intergovernmental organisation. How come? Well, because the Council of Europe, to start with, had very limited powers. In the actual Statute, the goals laid down for the Council of Europe were very general: it talked about achieving a closer union between its members in all fields, which is extremely vague, with a view to promoting democratic ideals and encouraging progress.

Some of these fields, however, were not to be addressed. The Statute stipulates that there is no question of dealing with defence issues, because for some members there was the Atlantic Alliance and for others there was neutrality. So it was impossible for the Council of Europe to discuss defence questions or, consequently, foreign policy questions, since at the time, with the Cold War going on, defence and foreign policy were closely linked areas for the Western camp.

In the economic field, too, the Council of Europe could, of course, discuss such matters, but could not take any initiative on them since it had to avoid encroaching on the territory of the OSCE.

So it is obvious that the Council of Europe's scope for action was going to be extremely limited and that the principal problems were outside its remit. It therefore had to find other fields in which to act and it was to find them with human rights, judicial cooperation and exchanges of cultural activities. All this made it possible for the Council of Europe to play an effective part in the ensuing years, though not on the essential questions of how to structure a united Europe. So its areas of competence were limited.

A second limitation was a limitation on its powers. The governments did, of course, agree to set up a parliamentary assembly, but there was no question of giving it its own powers. The assembly was not a body which passed laws, since there was no provision for it to do so: there was no question of giving it legislative

competence. It was an assembly which was merely consultative, and the Statute says so explicitly: it is the Consultative Assembly of the Council of Europe. Its resolutions — because it did debate and vote on texts — had to be sent to a supervisory body, the Committee of Ministers. All the member States of the Council of Europe were represented on the Committee of Ministers, but the Committee was strictly intergovernmental. It met behind closed doors, whereas the Assembly held its debates in public, and it took its decisions by unanimous vote. In other words, it was a right of veto which could be used by any member of the Council of Europe.

Joking aside, then, the Council of Europe can be said to have suffered from congenital paralysis: it was created in order not to function, or at any rate to concern itself only with relatively secondary areas when compared with the issues at stake, and to do so under the close supervision of the Committee of Ministers. And supposing the Committee of Ministers approved a resolution adopted by the Assembly, the resolution did not commit the governments themselves; it was sent to each of the member governments of the Council of Europe and it was then up to them to act. What then happened was that either they did not follow up on it, or they agreed to resume negotiations for the conclusion of an intergovernmental convention which would then be implemented solely by the countries which agreed to it.

In other words, it is worth pointing this out because we have Community-based decision-making processes which are much more effective, fortunately, but you do see how narrow the limits were on the Council of Europe's spheres of competence and on its powers.

So in these circumstances what was there left for the Assembly to do? Well, it was a forum which was free to discuss anything apart from defence matters and which could adopt texts and then send them to the Committee of Ministers, without being able to affect what happened to them afterwards or whether they would be taken into account.

The members — and this is a problem which arose at the time — had to come from the national parliaments, but there was disagreement over the procedure for appointing them. The British insisted categorically that the members should be designated by governments. In other words, they put themselves forward as representatives of the national government, as in the usual kind of international organisation. France, on the other hand, insisted that there should be a degree of democratisation of the Assembly and that national assemblies themselves should be able to choose their representatives to the Consultative Assembly. But no one wanted to make a choice between the two methods, and each country remained free to proceed however it wished. The British stuck with the system of appointment by government, though with due regard for the rules of the democratic game, since care was taken to ensure that not only the governing party but also the opposition was represented. France, meanwhile, let the National Assembly and the Senate appoint the representatives to the Council of Europe, and most of the other member States followed the same practice. It is very important because representatives to the Consultative Assembly appointed by national parliaments were thereby free to speak their minds and vote as they wished, and thus expressed a particular trend in European opinion via the political parties and parliamentary representation.

So in fact the Assembly never managed to be a constituent assembly or a legislative assembly. Basically, it was a forum. A forum where you could talk and where practically all the ideas which were later put into effect as a way of setting up a genuine system for organising Europe were put forward and debated. The European parliamentarians sitting in Strasbourg refused to accept the limitations imposed by the Statute and the governments: they talked about everything. Remember that it was in the Parliamentary Assembly in Strasbourg that, in 1950, Winston Churchill first floated the idea of a European army, which was a very high-profile initiative. Apart from floating the idea, however, there was nothing else the Assembly could do. As for the Committee of Ministers, it pushed the paper to one side because it proposed to deal with the problem of German rearmament and the rearmament of Western Europe by other methods.

Even so, the Council of Europe did have one good feature: it brought together the European States which had democratic regimes. From the outset, the only countries admitted to the Council of Europe were those which subscribed to democratic values and abided by the rules of parliamentary democracy. Little by little, as countries signed up to that system, they were admitted to the club of democratic Europeans. This

happened with Spain and Portugal after they had got rid of their authoritarian regimes. Little by little, the Council of Europe was to expand and bring together practically all the Western European countries and, after the fall of communism, the countries which were formerly satellites of the Soviet Union. This went as far as letting Russia in, although the democratic criteria raised a serious problem of interpretation. In other words, we now had an organisation which encompassed all the European countries, but which was rather symbolic and was to act, to some extent, as an antechamber to joining a much more effective organisation with a far more substantial reach, in both political and economic terms — the European Communities to begin with, and then the European Union since 1992.

A striking feature is that among the Eastern bloc countries, they were very quick to apply to join the Council of Europe, but what basically interested them was membership of NATO for security-related issues and membership of the European Communities so that they could be involved in building an economy on a Europe-wide scale.