

RESTRICTED
SR/224
1 June 1951
ENGLISH
ORIGINAL: FRENCH

SUMMARY RECORD OF THE TWO HUNDRED AND TWENTY-FOURTH MEETING

Held at Government House, Jerusalem, on Friday,
1 June 1951, at 9.30 a.m.

Present:

Mr. Aras (Turkey) - Chairman
Mr. de Boisanger (France)
Mr. Palmer (United States)
Mr. de Azcarate - Principal Secretary

1. Definition of a "refugee" under paragraph 11 of the resolution of 11 December 1948 (W/61)

The CHAIRMAN opened the discussion on the addendum to the definition of a refugee, prepared by the legal adviser.

Mr. PALMER (United States) said that it was with great interest that he had studied the addendum, which widened the scope of the definition of a refugee in complete conformity with the views of the Commission.

However useful such a definition might be, he felt that there was no necessity to take a final decision immediately. In his view, moreover, it would be inadvisable to lay down strict principles at a time when the Head of the Office was about to begin his work. He also wished to recall that the Director of the International Refugee Organization, who had been consulted when he visited Jerusalem in March 1949, had stated that the Palestine refugees formed a special category of refugees which did not come under the jurisdiction of the International Refugee Organization. The General Assembly, confirming that view, had later set up the Relief and Works Agency for Palestine Refugees in the Near East, and the Refugee Office under the

direction of the Commission, and charged them respectively with solving different aspects of the problem.

Those were considerations which the Commission should not ignore in deciding on the definition of a refugee. He therefore felt that it would be wise not to be too hasty in fixing the definition but to give the Office a chance to begin its work, trusting in the experience, legal knowledge and humanitarian feelings of Mr. Andersen and his collaborators who, in case of difficulty, would naturally be able to ask the advice of the Commission.

Mr. de BOISANGER (France) remarked that although the Arab refugees from Palestine were considered by the Director of the International Refugee Organization as forming a special category of refugees which did not come under the jurisdiction of that organization, that did not prevent the Commission from requesting the opinion of that specialized body concerning the definition which it intended to establish. There was no doubt that the Commission should establish a definition of a refugee according to the General Assembly resolution of 11 December 1948, but the more the question was examined, the more difficult it seemed to be to arrive at the basic principles of the definition, and therefore it would appear advisable to proceed empirically.

The CHAIRMAN wished first to propose a slight change in the third paragraph on page 2 of the addendum, namely, to replace the words "in the event, however, of the Arab States and Israel being prepared..." by the words "in the event, however, of the parties concerned being prepared...".

Speaking as the representative of Turkey, he then wished to draw the Commission's attention to the case of persons who, although they might be considered as "refugees", were citizens of various countries.

It would therefore be necessary to find out whether the governments concerned were prepared to protect the rights of their citizens or wished to entrust that task to the Commission. In that connection, he mentioned the case of the Government of Iran, which had itself successfully supported the interests of its citizens, thus easing the Commission's task. That example was one which might be followed.

He realized the extreme difficulty involved in drafting the definition which the Commission proposed to adopt. It would be

necessary to exercise care and to consult the most authoritative sources, but the humanitarian aspect of the question, which did not permit the indefinite postponement of a decision, could not be ignored.

Mr. PALMER (United States), clarifying his earlier remarks, said that, although he did not wish an unduly hasty decision to be taken on the terms of a general definition, he recognized that agreement could easily be reached in certain specific cases. With regard to the protection of the interests of nationals of different countries, there would be no objection to consulting the governments concerned at once.

Mr. ANDERSEN (Head of the Refugee Office) had listened with great interest to the views of the members of the Commission. It would naturally be necessary in due course to determine as precisely as possible the definition of a "refugee" under the General Assembly resolution of 11 December 1948, and to decide, according to principles of international law and in equity, what categories of persons would enjoy the right to return to their homes or to receive compensation.

Following the exchange of views concerning the very clear and full study prepared by the legal adviser, he had the impression that the members of the Commission were justifiably anxious not to restrict unduly the number of persons who could claim the rights provided for in the General Assembly resolution. There seemed to be general agreement that the element of nationality should be taken into account. The factor of origin would have to be studied more thoroughly, as well as that of equity, which might give rise to various interpretations.

He agreed with the members of the Commission that the Office should obtain the most authoritative opinions and establish contact with the competent international bodies, in order that its definition should be based on the strongest possible grounds. The information thus obtained could be complemented by the results of the further legal studies which the legal adviser might carry out in Geneva and perhaps in New York. He stated that Article 3 of the addendum proposed by the legal adviser appreciably widened the scope of the definition of a refugee, and pointed out that the text of that Article would have to be brought into line with the change which the Commission had made in the third paragraph on page 2.

In conclusion, he stated that there was no objection to postponing a decision concerning the precise terms of the definition of a refugee. Such a decision would not affect Mr. Berncastle's work, and the practical experience which the Office would acquire in the course of its work, together with the supplementary legal studies which would be carried out, would be helpful in clarifying certain important points.

Mr. ERIM (Legal Adviser) wished to point out that Article 3 of the proposed addendum to the definition of a refugee was an exceptional article which called for careful reflection before being included in the definition. He feared for reasons which he would expound in due course, that the article in question might be in contradiction to other decisions of the Commission.

The CHAIRMAN thanked the Legal Adviser for his excellent study which had given rise to an extremely constructive discussion, and suggested, on the basis of the exchange of views which had just taken place, that the Office should continue to study the definition of a refugee, keeping in close touch with the Commission, bearing in mind that the latter's duty was to ensure full implementation of paragraph 11 of the resolution of 11 December 1948, and securing all the guarantees required in the determination of a definition which was bound to give rise to criticism.

This was agreed.

2. The financial aspect of compensation : draft resolution submitted by the Refugee Office

The CHAIRMAN read a draft resolution clarifying that point of the terms of reference of the Office which related to the preparation of a preliminary study concerning the financing by Israel of the payment of compensation.

The Chairman remarked that during the conversations which the Office would have with the Israel authorities with a view to carrying out that preliminary work, no figure should be mentioned for the amount of compensation, and the PRINCIPAL SECRETARY stated that the report prepared by the Office was destined for the Commission alone, which would decide in due course what parts thereof should be communicated to the governments concerned.

Mr. de BOISANGER (France) added that the Office could rest assured that it would be able to work quite independently.

Mr. PALMER (United States) said that the resolution raised the question of the assistance which the Office would require in its study of the financial aspect of compensation, and, in particular, the services of a financial expert. In that connection, he informed Mr. Andersen that he would find it useful to meet Mr. Horowitz, an extremely competent and influential member of Israel governmental circles.

For the time being the present staff of the Office could proceed with the preliminary studies, but later on the services of a highly qualified financial expert would be indispensable.

Mr. de BOISANGER (France) proposed a slight drafting change in the resolution. He added that it would perhaps be difficult to proceed with studies of the financial possibilities of payment of an amount which for the present could not be disclosed to Israel.

Mr. ANDERSEN (Head of the Refugee Office) stated that the object of the resolution, which was worded in a similar manner to the terms of reference of the Office (W/58), was to clarify certain points of that mandate. He agreed to the amendment made by Mr. de Boisanger to the final text of the resolution and stressed that the preliminary studies, the object of which was merely to prepare the task of the financial expert, should not be confused with negotiations. He proposed that the date of submission to the Commission of the report to be prepared by the Office on that subject, which had been left blank in the draft resolution, be fixed at 15 August.

An exchange of views took place on the question of whether it would be preferable to obtain the collaboration of a financial expert or to contemplate setting up a committee of financial experts. The conclusion was reached that it would be desirable to request the services of a personality of the first rank who would have the necessary prestige to negotiate with the governments concerned and to establish contact with international financial bodies. The nationality of such an expert should not enter into the question, as his task would be essentially a technical one. However, if difficulties should arise in obtaining the assistance of such an expert, or if

at a later date it should be found that a committee of experts would be more effective, then a decision could be made in favour of the latter solution.

The CHAIRMAN suggested that Mr. de Boisanger, when he took over the chairmanship of the Commission on 15 July, should decide, in consultation with Mr. Andersen and the Principal Secretary, whether the preliminary studies were far enough advanced to enable the Principal Secretary to take the necessary steps to request the Secretary-General to obtain the collaboration of a financial expert.

This was agreed.

The CHAIRMAN then submitted for the approval of the Commission the resolution presented by the Refugee Office which, with the drafting change made by Mr. de Boisanger and the addition of the date proposed by Mr. Andersen, read as follows :

"The Commission has, in the terms of reference of the Office, entrusted the latter with the task of preparing a preliminary study of the possibilities of payment by the Government of Israel of the sums which would be needed to pay compensation.

"This study will be carried out after consultations with the competent Israel authorities, who will be requested to provide the Office with all the information it may require for the accomplishment of its task.

"The report to be drawn up by the Office on this subject should be submitted to the Commission by 15 August at the latest."

The resolution was adopted.

3. Future activities of the Commission

The CHAIRMAN read the following draft resolution concerning the future activities of the Commission :

"The Commission, having established with Mr. Andersen the general lines along which the Refugee Office should function, decides that after 15 June the Chairman shall be entrusted with fixing, at his discretion, the date and place of the next meeting of the Commission."

The resolution was adopted.

The meeting rose at 12 noon