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Application and amendment of various provisions of the Assembly's Rules of Procedure

Report
Committee on Rules of Procedure, Immunities and Institutional Affairs
Rapporteur: Mr Erik JURGENS, Netherlands

Summary

The Rules of Procedure currently in force were adopted by the Assembly in 1999 on the basis of a complete revision process. The Assembly considers it necessary to modify its Rules of Procedure in order to take into account changes in practice in recent years, in particular the clarification of the role and functions of the Assembly bodies, to review provisions which have not given complete satisfaction or no longer correspond to Assembly practice and to clarify those rules where interpretation or application raised difficulties.

This report submits proposals relating to:

– the role and functions of the Bureau of the Assembly and the Presidential Committee;

– the functions of the President of the Assembly and the term of office;

– the modalities for the election of committee chairpersons and vice-chairpersons and their term of office;

– the procedure for examining amendments to draft Assembly texts;

– the terminology in use with respect to the Assembly's agenda and abandoning the terms of "order of business" and "orders of the day";

– observer status and special guest status;

– some aspects of the Assembly's relations with the Committee of Ministers.

The changes to the rules should enter into force on 21 January 2008.

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A. Draft resolution

1. The Rules of Procedure currently in force were adopted by the Assembly some eight years ago (Resolution 1202 (1999)) on the basis of a complete revision process and came into force on 24 January 2000. In the meantime, these revised rules have been amended by various Assembly resolutions.

2. In Resolution 1202 (1999), the Parliamentary Assembly reaffirmed "the importance to a parliamentary institution of rules that are up to date, consistent and effective; and that place the fair and efficient regulation of proceedings in a context of political reality". It therefore considers it necessary to modify its Rules of Procedure in order to take into account changes in practice in recent years, to review provisions which have not given complete satisfaction or no longer correspond to Assembly practice, to clarify those rules where interpretation or application raised difficulties and to propose changes where specific questions or problems have arisen, including the clarification of the role and functions of the Assembly bodies.

3. Consequently, the Assembly decides to amend its Rules of Procedure as follows:

3.1. with regard to the functions of the Bureau of the Assembly and the Presidential Committee:

3.1.1. change the title of Chapter III to "Bureau, Presidential Committee and Standing Committee";

3.1.2. change the title of (current) Rule 12 to "Bureau of the Assembly and Presidential Committee";

3.1.3. after Rule 12.1 add the following new paragraph:

"The Bureau shall take decisions on the organisation of part-sessions and plenary sittings. It shall carry out other duties assigned to it under the Rules of Procedure, by the complementary texts to the rules or according to decisions taken by the Assembly.";

3.1.4. after Rule 12.2 add the following new paragraph:

"The Presidential Committee shall consist of the President of the Assembly, the chairpersons of the political groups (or their representatives) and the Secretary General of the Assembly. The Presidential Committee is a consultative body for the Bureau and the President of the Assembly. It shall prepare meetings of the Bureau and may be entrusted by it with liaison tasks.";

3.2. with regard to the term of office and functions of the President of the Assembly:

3.2.1. add the following new sentence to Rule 13.5:

"The President may be re-elected once for a further term, consecutive or not. However, a President elected in the course of a session for an incomplete term may be reelected for two further terms";

3.2.2. replace Rule 18.1, with the following:

"The President shall open, suspend and close sittings, direct the debates of the Assembly, rule on the admissibility of motions for recommendations and resolutions, amendments and written declarations tabled by members, ensure observance of the rules, maintain order, call on speakers, close debates, ascertain whether a quorum exists, put questions to the vote and announce the result of votes. The President shall perform a similar role in relation to the Standing Committee and the Bureau and chair the Presidential Committee and the Joint Committee. The President shall represent the Assembly in its external and international relations.";

3.3. with regard to references to committees, amend Rule 24 as follows:

3.3.1. replace Rule 24.1 with the following:

"The Bureau shall reach a decision on all documents mentioned in Rule 22.2.b, d, e, g and, if appropriate, k, if necessary after consulting one or more committees, and may decide that the documents shall be referred to one or more committees, forwarded to one or more committees for information, or that no further action be taken.";

3.3.2. replace the first sentence of Rule 24.2 with the following:

"The Bureau shall submit these decisions for ratification as soon as possible, either by the Assembly or the Standing Committee. These decisions shall become available to members through the progress report of the Bureau and the Standing Committee or in a separate document. Rule 33.5, second and third sentences, shall apply mutatis mutandis." (see paragraph 3.5.2 below);

3.4. with regard to the agenda, the order of business and the orders of the day:

3.4.1. in Rules 8.4, 9.3, 18.2, 33.1 and 40.*a* replace the words "order of business" with the word "agenda";

3.4.2. replace Rule 22.2.*a* with the following:

"The agenda for a part-session, the minutes of proceedings and the official report of debates;";

3.4.3. amend Rule 25 as follows:

3.4.3.1. change the title to "Agenda";

3.4.3.2. replace Rules 25.1 to 25.6 with the following:

"25.1. Any matter within the competence of the Assembly may be placed on the agenda. The Progress Report of the Bureau and the Standing Committee shall be placed on the agenda.

25.2. A part-session may include a debate on general policy.

25.3. On the basis of a list of reports already approved by committees but not yet debated and of reports to be approved in time for the part-session, the Bureau shall draw up a draft agenda for each part-session showing at which sittings the items are to be considered. The draft agenda shall be communicated to all members of the Assembly at least two weeks before the opening of a part-session."

3.4.3.3. in Rules 25.7 to 25.8, replace the words "draft order of business" with "draft agenda";

3.4.4. delete Rule 32 relating to the orders of the day and delete consequently the words "the settling of the orders of the day" in Rule 35.7 and "decide the orders of the day" in Rule 41.1.;

3.4.5. in Rule 33.2. replace the words "draft order of business" with "draft agenda";

3.4.6. in Rule 50.1, replace the words "an item which has not been placed on the agenda of the Assembly" with "an item which has not been placed on the draft agenda as approved by the Bureau";

3.4.7. in Rule 52.1, replace the words "a subject matter which is not on its agenda" with "a subject matter which is not on the draft agenda as approved by the Bureau";

3.5. with regard to the debate and consideration of texts, modify Rule 33 as follows:

3.5.1. in Rule 33.4, after "debate on the committee's report", add the following words: "or on the report of a Bureau ad hoc committee on the observation of an election";

3.5.2. after Rule 33.4, add the following new paragraph:

"The progress report of the Bureau and the Standing Committee may contain a special section or an appendix listing the decisions to be ratified by the Assembly, including in particular decisions taken on the basis of Rule 24 concerning official documents. Adoption of a motion by a member to change a Bureau decision shall require a majority of the votes cast. On any such motion only the mover, one speaker against and the rapporteur of the Bureau shall be heard.";

3.6. with regard to amendments and sub-amendments, modify Rule 34 as follows:

3.6.1. in Rule 34.5, after the third indent, insert the following sentence:

"If the Assembly adopts changes to the draft agenda, the President may, if necessary, propose different deadlines to the Assembly.";

3.6.2. in Rule 34.5, replace the last sub-paragraph with the following:

"Sub-amendments shall be tabled one hour before the scheduled end of the sitting preceding that in which the debate begins";

3.6.3. after Rule 34.8, insert the following new paragraph:

"Before the first amendment is called, the President or any member may move a motion that only the rapporteur or the committee chairperson should speak on amendments. On any such motion shall only be heard the mover, one speaker against and the chairperson of the committee concerned.";

3.6.4. after Rule 34.8, insert the following new paragraph:

"Following a proposal presented by the chairperson of the committee seized for report, and if no Assembly member objects, amendments which have been unanimously approved by the committee shall be declared as adopted by the Assembly. In these circumstances Rules 34.7 and 34.8 shall not be applied.";

3.7. with regard to procedural motions, modify Rule 37 as follows:

3.7.1. replace Rule 37.1.*a* with the following: "to move a dilatory motion";

3.7.2. replace Rule 37.1.*d* with the following:

"to move reference of the report back to committee either during the opening sitting when the draft agenda is adopted, or when the report is debated anytime before the vote on the whole of any draft text begins.";

3.7.3. (English only) at the end of Rule 37.1, replace "an item of business" with "a debate";

3.7.4. at the end of Rule 37.1 add the following sentence:

"The procedural motions mentioned in paragraphs a. to c. shall be in order only if notice has been given in writing to the President before the end of the previous sitting or, in the case of the first sitting of a part-session, two hours before the start of the sitting.";

3.8. with regard to the bureaux of committees, modify Rule 45 as follows:

3.8.1. replace Rule 45.1 with the following:

"The Bureau of each committee shall consist of the chairperson and the three vice-chairpersons, normally elected at the first committee meeting of each Ordinary Session, while taking into account the principle of gender equality.";

3.8.2. in Rule 45.3, add at the end of the first sentence the following words:

"and must belong to the political group to which the chair or a vice-chair has been allocated on the basis of an agreement reached among these groups within the Presidential Committee.";

3.8.3. replace Rule 45.4 with the following paragraph:

"no chairperson or vice-chairperson of a committee or sub-committee may be chairperson or vice-chairperson of another Assembly committee or sub-committee. This does not apply to ad hoc committees and ad hoc subcommittees.";

3.8.4. replace Rule 45.7 with the following paragraph:

"The chairperson and the vice-chairpersons of a committee shall remain in office until the opening of the next Ordinary Session of the Assembly. They may be reelected for one further term, consecutive or not. Moreover, a committee chairperson or vice-chairperson elected in the course of a session for an incomplete term may be re-elected for two further terms";

3.9. with regard to questions to the Committee of Ministers, at the end of Rule 58.2, add the following new sentence:

"Subject to the consent of the Chairperson of the Committee of Ministers, the final fifteen minutes of the questions for oral answer may be reserved for spontaneous questions.";

3.10. with regard to special guests, add the following text at the end of Rule 59.8:

"They may sign motions for resolutions and recommendations and written declarations. However, they shall not be taken into account for the number of signatures required. Members of special guest delegations may participate in the work of political groups according to the conditions established by the groups.";

3.11. with regard to observers, modify Rule 60 as follows:

3.11.1. at the end of Rule 60.1, add the following new sentence:

"Any requests for observer status shall be referred to the Political Affairs Committee for report and to other relevant committees for opinion.";

3.11.2. replace second sentence of Rule 60.2 with the following:

"The parliaments concerned are not required to submit credentials to the President of the Assembly. However, they shall submit to the President of the Assembly not less than one week before the opening of the Ordinary Session a list of members appointed for the whole duration of the session, which should reflect the political balance within the parliaments.";

3.11.3. replace Rule 60.4 with the following:

"Members of observer delegations may attend committee meetings as provided in Rule 47.5. They may sign motions for resolutions and recommendations and written declarations. However they shall not be taken into account for the number of signatures required. Members of observer delegations may participate in the work of political groups according to the conditions established by the groups.".

4. Moreover, the Assembly decides to introduce the following changes in its Rules of Procedure:

4.1. with regard to the reports of debates, replace the two first sentences of Rule 30.1 with the following:

"An official report of the debates of each part-session shall be issued. A provisional report of each sitting shall be distributed as soon as possible.";

4.2. with regard to the debate and consideration of texts, in Rule 33:

4.2.1. at the end of Rule 33.2, add the following:

"However, if at least ten Representatives or Substitutes belonging to at least five delegations object, the postponement may be overruled by the Assembly through a vote by a two-thirds majority.";

4.2.2. in Rule 33.2, footnote 3, replace "that of the postmark" by "the moment when documents are being made available to members in their paper or electronic versions";

4.3. with regard to the procedure in committees, at the end of Rule 46.5, add the following sentence:

"The objection may be overruled by the committee by a two-thirds majority.";

4.4. with regard to meetings of committees, at the end of Rule 47.1, add the following sentence:

"Except during part-sessions, the convocation to the meeting shall be sent to members at least seven days before the meeting";

4.5. with regard to reports of committees, at the end of Rule 49.5, add the following sentence:

"If, after the tabling of a report, important developments occur, the committee may approve an addendum to it";

4.6. with regard to urgent procedure, modify Rule 50 as follows:

4.6.1. replace Rule 50.1 with the following new paragraph:

"At the request of the Committee of Ministers, of the committee concerned, of one or more political groups, or of twenty or more Representatives or Substitutes, a debate may be held on an item which has not been placed on the draft agenda as approved by the Bureau;";

4.6.2. at the end of Rule 50.4 add the following sentence:

"and refer the item to a general committee of the Assembly for report and, if appropriate, to a committee for opinion.";

4.7. with regard to current affairs debate, modify Rule 52 as follows:

4.7.1. at the end of Rule 52.3, add the following sentence:

"this final decision shall be endorsed by the Assembly";

4.7.2. after Rule 52.5, add the following new paragraph:

"Rules 52.1 to 52.5 shall apply mutatis mutandis to a current affairs debate which may be requested to be held at the Standing Committee.".

5. Furthermore, with regard to the complementary texts to the rules, the Assembly invites the Bureau to consider modifying the additional provisions relating to Assembly debates as follows:

5.1. adapt section i, organisation of debates, to the new provisions in paragraph 3.9. above;

5.2. in section iv (speaking time) replace paragraphs 2 and 3 with the following text:

"2. Rapporteurs shall have a total of thirteen minutes to present the report and to reply to the debate.

Rapporteurs may, after the first round of speakers on behalf of the political groups, request the floor for a speaking time of up to four minutes to reply, which time shall be deducted from the time of reply at the end of the debate.

3. Rapporteurs for opinion shall have three minutes to present their opinions or to reply to the debate.";

5.3. in section vi (guidelines for questions to guest speakers), replace paragraph 4 with the following text:

"4. Spontaneous questions may be put to guest speakers. Questions may be restricted to political groups' spokespersons. After speeches of heads of state or government, if time allows, the political groups' spokespersons may make short statements.";

5.4. replace in the relevant complementary texts "order of business" with "agenda".

6. Finally the Assembly decides:

6.1. in paragraph 4.ii of Resolution 1125 (1997) on the request by the Canadian Parliament for observer status with the Parliamentary Assembly, after the words "six seats", to add the following words "of representatives and six seats of substitutes";

6.2. in paragraph 4.ii of Resolution 1203 (1999) on the request by Mexico for observer status with the Council of Europe after the words "six seats", to add the following words "of representatives and six seats of substitutes".

7. The Assembly decides that the changes to the Rules of Procedure shall enter into force at the opening of the January 2008 part-session (21 January 2008). The proposed change of Rule 45.7 shall only apply to committee chairpersons and vice-chairpersons elected as from the January 2008 part-session.

B. Explanatory memorandum, by Mr Jurgens

1. Introduction

1. The Rules of Procedure adopted by the Assembly on 4 November 1999 (Resolution 1202 (1999)) came into force on 24 January 2000. In the meantime these revised rules have been amended by the adoption of various resolutions. Traditionally, during the "lifetime" of completely revised rules, one or more reviews of their operation are made (for example, Resolutions 602 (1975), 895 (1988), 1234 (2000)).

2. A motion for a resolution on the application and amendment of various provisions of the Rules of Procedure presented by Mr Gross and others (Doc. 10915) was transmitted to the Committee on Rules of Procedure and Immunities for report on 26 June 2006. Two other motions for a resolution presented by Mr Severin and others on the need to modify the Rules of Procedure of the Assembly in order to promote its external relations (Doc. 11000) and by Mr Wodarg and others on the election of committee chairpersons and their term of office (Doc. 11122) were also transmitted to the committee on 2 October 2006 and 16 March 2007 respectively for taking into account in the framework of the preparation of this report.

3. Moreover, under the terms of Rule 66.2, the Bureau of the Assembly has, *inter alia*, instructed the Committee on Rules of Procedure and Immunities to examine the following matters:

– criteria for the drawing-up of the list of speakers and list of questions during part-sessions (AS/Bur (2006) 53 and synopsis of the meeting on 29 May 2006);

– procedure in committee for examining and adopting draft texts (synopsis of the meeting on 2 October 2006);

– procedure and practice for the examination of motions for resolutions and recommendations (synopsis of the meeting on 2 October 2006);

– the composition of the Joint Committee regarding the Assembly (synopsis of the meeting on 2 October 2006);

– the possibility of addressing spontaneous questions to the Chairperson of the Committee of Ministers when he or she addresses the Assembly (synopsis of the meeting on 6 October 2006).

4. The review operated by the Committee on Rules of Procedure and Immunities did not consist of a complete sift of all provisions of the rules but was rather aimed at examining:

– provisions which have not given complete satisfaction or no longer correspond to Assembly or Standing Committee practice, including major lacunae in the rules;

– instructions by the Bureau of the Assembly to the Committee on Rules of Procedure and Immunities to examine the operation of various rules;

– proposals by committee members.

5. On the basis of these categories the rapporteur has identified the rules which should be discussed or amended (completed) by the committee.

6. Although priority was given to the rules proper of the Assembly, this did not exclude the consideration of any complementary texts to the rules which have given rise to questions. During his preparatory work the rapporteur had contact with the President of the Assembly, the chairpersons of political groups and of several national delegations to whom he had sent his preliminary proposals, other Assembly members and high officials of the Assembly. He is grateful for their suggestions, most of which have been borne in mind for this report.

2. Rules which have not given complete satisfaction or no longer correspond to Assembly practice (including major lacunae in the rules)

2.1. General

7. In the last seven years since the entry into force of the completely revised rules (see Resolution 1202 (1999)) one notes the following problems:

– giving more information on the role and functions of the Bureau of the Assembly and absence of any explicit reference to the Presidential Committee in the Rules of Procedure;

– need for a more detailed description of the functions of the President of the Assembly and of his/her term of office;

– reviewing the modalities for the election of committee chairpersons and vice-chairpersons and their term of office;

– reviewing the duration (end) of the term of office of Assembly members following general (parliamentary) elections in member states;

– need for streamlining of the procedure for examining amendments;

– simplifying terminology with respect to the agenda, order of business and orders of the day of the Assembly;

– reviewing and/or updating of the provisions concerning observer and special guest status (see Resolution 1506 (2006));

– reviewing some aspects of the Assembly's relations with the Committee of Ministers (spontaneous questions to the Chair, composition of the Assembly's delegation to the Joint Committee).

These issues will be analysed below.

8. In addition, there are some rules where specific questions or problems have arisen. They will be discussed in Section III below.

2.2. More information on the role and functions of the Bureau of the Assembly

9. Currently, Rule 12 of the Rules of Procedure deals with the Bureau of the Assembly and lists just three of its activities:

– co-ordination of the work of the Assembly and its committees;

– assistance to the President in his functions;

– guiding the Assembly's external relations.

10. It results from other provisions in the rules (for example, Rules 15.4, 17, 24, 25, 38, 43.3, 43.4, 50, 52, 55, 59, 60, 63) and in the complementary texts to the rules (for example, additional provisions relating to Assembly debates; special rules concerning relations with parliamentary and inter-parliamentary assemblies of non-member states, Resolutions 1115 (1997) and 1431 (2005) concerning the Assembly's monitoring activities) that the Bureau has further major tasks and functions. Further duties of the Bureau are to:

– draw up a list of candidates for the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on the proposal of the Committee on Legal Affairs and Human Rights;

– decide on the observation by the Assembly of elections and referendums (see guidelines for the observation of elections);

– authorise committee meetings elsewhere than in Strasbourg or Paris;

– organise the institutional representation of the Assembly at various Council of Europe and outside events;

– take certain decisions in relation with the Assembly's budget (financial appropriations of political groups);

– take various other decisions of an administrative character such as access of the public to the Palais de l'Europe, declassification of documents, and granting the titles of Honorary President or Secretary General of the Assembly.

11. The Committee on Rules of Procedure and Immunities agreed that it would not be appropriate to mention all these (and further) Bureau functions in Rule 12. It proposes to include in a new paragraph of Rule 12 the major task of the Bureau to take decisions on the organisation of part-sessions and plenary sittings. Furthermore, this new paragraph should mention that the Bureau carries out other duties assigned to it under the Rules of Procedure, by the complementary texts to the rules, or according to decisions taken by the Assembly.

2.3. Possibility for the Bureau to submit to the Assembly reports with substantive parts

12. Proposals have been made to enable the presentation to the Assembly (or the Standing Committee) of reports of the Bureau or of Bureau ad hoc committees which contain a draft resolution or draft recommendation.

13. Rule 33.1 of the Assembly's Rules of Procedure stipulates that: "Each item on the order of business shall be considered on the basis of a report from the relevant committee or from the Bureau". However, reports of the Bureau may not include a draft recommendation or resolution. Indeed Rule 33.4 which stipulates that: "Following the debate on the committee's report, the Assembly shall vote on the draft text or draft texts which it may contain", reserves this possibility to Assembly committees. It does not mention the Bureau.

14. It has happened in the past that the Bureau has presented to the Assembly reports containing a draft resolution or a draft recommendation which was voted by the Assembly. Such reports dealt with relations with national parliaments, events in Greece, reactivation of the Council of Europe, rationalisation of Assembly committees, etc. However, this practice which was based on paragraph 1 of Rule 33 in its pre-1999 version, has given rise to criticism and was even contested in plenary (see report of the Assembly sittings held on 30 and 31 January 1968, pp. 713 *et seq*. and 771 *et seq*.) It was then argued that under the rules it was for committees to submit to the Assembly reports containing draft texts.

15. In the light of this experience the Bureau should not be able to submit to the Assembly or the Standing Committee reports with draft texts which fall under the competence of a general Assembly committee. This is, however, not the case for reports on the observation of elections. It should therefore be allowed by the Rules of Procedure that the conclusions of such reports be integrated in draft resolutions (or recommendations) which would also be subject to amendments. A corresponding proposal has been included in the draft resolution contained in this report.

16. Also, the progress report of the Bureau and the Standing Committee, which is presented during each part-session, does not include draft texts. After having been debated by the Assembly the report is then approved in its entirety by the Assembly. Since the report may contain political decisions – such as the closure of a post-monitoring procedure – some members have wondered if such decisions should appear in a draft resolution to be submitted for formal adoption by the Assembly. Already in the current circumstances the progress report is prepared under a heavy time pressure. Therefore, the rules should specify that the progress report may contain a special section or an appendix listing the Bureau decisions to be ratified by the Assembly.

2.4. Proposal for changing the composition of the Bureau

17. Both the membership in the Bureau of Assembly vice-presidents, as representatives of national parliamentary delegations, and the modalities of their election have given rise to questions.

18. Since 1998 when the system was simplified (Resolution 1160), there have been no more contested elections of vice-presidents. The single candidates proposed by national delegations were always simply declared elected (Rule 14.3), unless there was no candidate and the seat remained vacant. The democratic character of this system has been the subject of criticism. It should be noted, however, that Rule 14.4 (second and third sentences) does not exclude elections.

19. The rotation system for the attribution of Assembly vice-chairships to the smaller national delegations which can propose a candidate every so many years does not guarantee continuity of the Bureau. Furthermore, the vice-chairships of the delegations with between five and ten seats in the Assembly[1] last two years only. The situation is not better for delegations with between two and five seats in the Assembly. This limits the chances of the Assembly vice-presidents concerned to take real responsibilities.

20. Furthermore, the following questions remain open: do Assembly vice-presidents regularly consult national delegations before Bureau meetings and report to them afterwards on what contributions they made to the meeting? Do vice-presidents belonging to national delegations without a permanent Assembly vice-chairship also represent those countries of their group (see the system for the attribution of vice-chairships) not currently having a seat in the Bureau of the Assembly? The participation of vice-presidents in Bureau

1. The system for the attribution of Assembly vice-chairships is described in the appendix to Resolution 1379 (2004), see p. 132 of the Rules of Procedure of the Assembly (2006 edition).

meetings in 2004 was 65.3% and respectively 61.3%, 57.9% and 48.3% in the Bureau meetings held in 2005, 2006 and (so far) in 2007. This shows the current limits of the representation of national delegations concerned in the Bureau.

21. It is therefore not astonishing that since at least 2003 (see paragraph 32 of Doc. 10185) it has been more or less regularly proposed that all Bureau members should be appointed through political groups, proportionally to their strength. This could be done on the basis of the D'Hondt system, once the Bureau's size has been fixed. The supporters of this idea consider that, composed in this manner, the Bureau would be truly representative.

22. Admittedly, this would have an inconvenience. The presence in the Bureau of national delegations through vice-presidents, which has existed since 1949, would be terminated. The reform discussions in the Assembly over the past year and some consultations and meetings with those national delegations (for instance, during the January 2007 and June 2007 part-sessions) which have permanent seats in the Bureau have also shown that a majority of these delegations do not, for the time being, wish for further changes in the balance between national delegations and political groups to the advantage of the latter.

23. In order to make the Bureau politically fully representative of the Assembly, the rapporteur has proposed that the Bureau should henceforth be composed:

– of the President of the Assembly, the chairpersons of the political groups and of the Assembly's general committees (current situation); and

– of a number of members (between 10 and about 20) appointed by the political groups according to the d'Hondt principle, which would enable each group to nominate at least one representative to the Bureau.

24. However, at its meeting on 3 October 2007, the Committee on Rules of Procedure and Immunities expressed itself clearly against this proposal and decided to leave the rules as they are. It is therefore no longer necessary to discuss the possible consequences for the functions of the Assembly vice-presidents and different organs of the Assembly.

2.5. The Presidential Committee

25. The Presidential Committee was first established on 25 March 1993 as an ad hoc committee of the Bureau. It is composed of the President of the Assembly, the chairpersons of the Assembly's political groups and the Secretary General of the Assembly. Its original mandate is to assist the President in the co-ordination of the Assembly's activity and in the implementation of decisions (see AS/Bur (44) PV 11). The Presidential Committee does not take decisions. It is currently a consultative body for the President of the Assembly and the Bureau and also has certain preparatory and liaison tasks. It is therefore teasingly referred to by Parliamentary Assembly members as "the Politburo". It represents the Assembly during joint meetings with the Conference of Presidents of the European Parliament (and occasionally, similar bodies of other international institutions) and meetings with the Bureau of the Ministers' Deputies.

26. The Presidential Committee is not mentioned in the Rules of Procedure, which may lead to the absence of a clear-cut definition of its functions and a certain lack of transparency. The agendas and conclusions of the Presidential Committee are not public and, in particular, not distributed to members of the Assembly, including those of the Bureau which usually meets immediately after the meeting of the Presidential Committee. This and further aspects have been the subject of some criticism.

27. During the rapporteur's discussions with Assembly members, some considered that membership of the Presidential Committee should be increased. However, no formal proposal on this issue was received. The Committee on Rules of Procedure and Immunities agreed to propose that a new paragraph on the Presidential Committee be added to Rule 12 which deals with the Assembly's Bureau. This new paragraph should list the current members of the Presidential Committee and its main functions:

– to be a consultative body for the Bureau and the President of the Assembly;

– to prepare meetings of the Bureau and to be entrusted by the Bureau with liaison tasks.

2.6. The term of office and functions of the President of the Assembly

2.6.1. Functions of the President

28. In so far as the rules are concerned the main duties of the President are set out in Chapter V of the Rules of Procedure (Rules 18 to 21). According to these provisions, they include:

– formal functions (opening, chairing, suspending and closing of Assembly sittings);

– controlling and conducting functions concerning the proceedings of the Assembly (the rules, maintenance of order in the Assembly chamber and in the galleries); calling on speakers; ascertaining that the quorum is present; putting questions to the vote; and announcing the result of votes.

29. According to other provisions in the rules:

– the President decides in cases of doubt whether a question raised in the course of a session is within the agenda of the Assembly;

– he/she decides if motions, amendments and written declarations tabled by members are in order;

– the credentials of members are sent to him/her;

– the President chairs the Joint Committee, the Bureau (and the Presidential Committee) and the Standing Committee and conducts their proceedings.

30. The President has, in addition, important external functions:

– he/she is the representative of the Assembly as a whole and is the natural channel for all formal communications with outside authorities or persons;

– he/she ensures liaison with other Council of Europe organs and institutions; he/she addresses, on behalf of the Assembly, Council of Europe summits and sessions of the Committee of Ministers;

– he/she represents the Assembly in its international relations (national parliaments, governments and international organisations) and, in this connection, undertakes official visits within and outside the Council of Europe; he/she signs co-operation agreements with other national or international parliamentary institutions.

31. Furthermore, the President has different functions concerning such matters as requests for the waiver of members' immunity, list of speakers, budget and petition procedures, distribution of and access to documents, requests for exhibitions and similar.

32. It would not be appropriate to include all the above tasks, which are not exhaustive, in the central Rule 18.1 relating to the President of the Assembly. Therefore the Committee on Rules of Procedure and Immunities proposes to complete Rule 18.1 by adding some important functions which are also to be found in the relevant rules of comparable international parliamentary institutions:

– the duty of the President to rule on the admissibility of motions for recommendations and resolutions, amendments and written declarations tabled by members;

– his/her functions with respect to the Standing Committee and the Bureau and his/her duty to chair the Presidential Committee and the Joint Committee;

– his/her representation of the Assembly in its external and international relations.

2.6.2. Term of office of the President

33. The Assembly's Rules of Procedure do not specify the number of terms of office the President of the Assembly may serve. However, a tradition and practice reaching back to 1959 and which has never been departed from, restricts in fact to three the number of annual mandates of the President.

34. At the meeting of the Committee on Rules of Procedure and Immunities on 14 September 2007 it was proposed to limit to two years the term of office of the President. This would require a change of Rule 13.5 as follows:

– inserting a sentence saying that the President may be re-elected once for a further term consecutive or not;

– specifying that the President, if elected in the course of a session for an incomplete term, may be re-elected for two further terms.

2.7. Duration of the term of office of Assembly members

2.7.1. Consequences of the loss of membership of the national parliament

35. Problems have arisen in ascertaining how long following parliamentary elections those Assembly members who did not stand in these elections or were not elected, could remain in the national parliamentary delegation to the Council of Europe. It has been proposed, in particular during the 2004 European Conference of Presidents of Parliaments, that the term of office of Assembly Representatives and Substitutes should expire the moment they cease to be members of their national parliament. This would conflict with Rule 10.3 of the Assembly's rules according to which: "Following parliamentary elections the national parliament concerned or other competent authority shall make appointments to the Assembly within six months of the election. The credentials of the existing delegation shall expire at the opening of the first sitting of the Assembly or meeting of the Standing Committee following the appointment of the new delegation by the national parliament or competent authority".

36. This rule is based on the principle of continuity of membership which is in the interest of the Assembly, as it limits vacancies of seats.

37. Some of the national parliaments have fixed dates for the expiry of the mandate of Assembly members which do not necessarily correspond to those of the Assembly; they either are different from the Assembly's rules concerning the substance or differently worded. The regulations in force for the Swiss delegation to the Assembly stipulate, for instance, that the mandate of Swiss members who leave the national parliament, expires at the latest at the end of the following Parliamentary Assembly part-session.

38. The rapporteur considers that it is up to member parliaments to decide whether it suits them to continue the membership of Parliamentary Assembly Representatives and Substitutes who are no longer members of their parliament, while respecting the provisions of Rule 10.3.

2.7.2. Six-month time limit in Rule 10.3 and opening of the new parliamentary year

39. Since the preparation of the previous version of this memorandum a new question relating to Rule 10.3 was raised. In the meeting of the Bureau of the Assembly on 22 January 2007 a member pointed to the inconsistency between the six months time limit granted to national parliaments to make changes to their delegation to the Assembly and the obligation to renew these delegations at the opening of the annual session of the Assembly in January of every year.

Genesis of the relevant provisions in the rules and Statute of the Council of Europe

40. In its initial version of 1949 the Council of Europe's Statute does not mention the end of Assembly members' mandate. When the Assembly adopted revised Rules of Procedure in December 1951, the wording of draft Rule 7 on the duration of the term of office of Representatives and Substitutes was reserved and referred back to the Committee on Rules of Procedure and Privileges for reconsideration.

41. The committee first proposed to complete Article 25.*a* of the Statute by two sub-paragraphs (Resolution 18 (1952)). The Committee of Ministers accepted the proposals in that resolution without change and the revised text of the Statute entered into force in May 1953. Since that time the second sub-paragraph of Article 25.*a* of the Statute reads as follows. "The term of office of Representatives thus appointed will date from the opening of the next ordinary session following their appointment; it will expire at the opening of the next ordinary session or of a later ordinary session, except that, in the event of elections to their parliaments having taken place, member states shall be entitled to make new appointments."

42. The Assembly also agreed to insert similar provisions in Rule 7 of the Assembly's Rules of Procedure (Resolution 19 (1952)). However, during the preparatory work for the changes of the Statute (Article 25) and of the Assembly's rules (Rule 7) the problem arising from the fact that after elections it takes time to constitute a new delegation to the Assembly was not discussed and played no role.

43. In 1970 the Assembly discussed a report on a new change to Article 25 of the Statute (Recommendation 600 (1970)). The main objective was then to ensure that seats in the Assembly were occupied by parliamentarians and not by former parliamentarians (for more than a year) as had occurred in the past (see the report, Doc. 2745 paragraph 3 and AS/Pro (21) PV 3). Following the adoption of Recommendation 600 (1970) and its acceptance by the Committee of Ministers, Rule 25.*a* of the Statute was amended as follows: "The Assembly shall consist of Representatives of each member, elected by its parliament from among the members thereof, or appointed from among the members of that parliament in

such manner as it shall decide, subject, however, to the right of each member government to make any additional appointments necessary when the parliament is not in session and has not laid down the procedure to be followed in that case". Recommendation 600 (1970) also included paragraph 4 which is worded as follows: "Considering that when necessary a reasonable delay should be granted to member states in the appointment of a new parliamentary delegation but that this delay should not exceed six months". When accepting Assembly Recommendation 600 (1970) the Committee of Ministers made no comments concerning paragraph 4. According to the report (Doc. 2745, paragraph 7) the six months clause has merely been introduced "to take into account the practical difficulty of appointing a new national delegation immediately after elections, particularly if these take place immediately before the opening of an Assembly session". In the report on action to be taken regarding the amendment of Article 25 of the Statute of the Council of Europe (Doc. 2855) it is observed that the six months rule is a flexible means of interpreting the new provisions of Article 25 of the Statute. Since 1999/2000 this deadline is explicitly referred to in Rule 10.3 of the Rules of Procedure.

Recent practice of the Assembly

44. When a parliamentary election is held in a member state in the autumn, and no new delegation is appointed in time for the opening of the new parliamentary year in January, the Assembly's practice used to follow two alternative scenarios:

– either the delegation is simply set up at the January session on the basis of the complete former delegation, including members not re-elected in their national parliament,[2] and the new delegation will be set up later (normally at the March Standing Committee or the April part-session); members who were renewed in January could then be invited to resign from the delegation in order to give up their places to new members;

– or the credentials of the delegation are presented to the Assembly on the basis of the former delegation but only with the names of the members who have been reelected in their parliament.[3]

45. This situation is the result of the existence at Assembly level of two competing principles: that of the continuity of the membership of the Assembly and that of the opening of a new Assembly session in January of each year. The opening of the new "parliamentary year" implies, in particular, the ratification of members' credentials, the reconstitution of committees and the election of the President and committee chairpersons.

46. However, in recent years one notes a tendency, based on the wording of Article 25.*a* of the Statute, to avoid continuing the six months deadline referred to in Rule 10.3, beyond the opening of the new parliamentary year. According to this practice, even if no new parliamentary delegation has been appointed following parliamentary elections, the term of office of members of the former delegation not re-elected or no longer being parliamentarians ends in all circumstances at the opening of the January part-session. The aforementioned statement made in the Bureau on 22 January 2007 reflects this practice, which is in line with the Assembly's efforts in recent years to increase its representative character and to strengthen its authority.

Opinion of the rapporteur and the committee

47. The rapporteur considers (see the explanations in paragraphs 44 and 48 of Document AS/Pro (2007) 11 rev. 2) that it should be more clearly stipulated in the rules (Rule 10.3) when the mandate of delegation members who are no longer Assembly members should end in any case. Furthermore, the six months rule should be equally applied to members elected/appointed during the first and the second half of the year.

48. The rapporteur has submitted proposals to this end. However, the Committee on Rules of Procedure and Immunities agreed with a clear majority that the existing provisions should not be changed.

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2. This has been the case, for example, for the delegation of Georgia following the elections on 2 November 2003, the delegation of Croatia following the elections on 23 November 2003, the delegation of Serbia and Montenegro following the elections on 28 November 2003, the Russian delegation following the elections on 7 December 2003, or the delegation of Romania following the elections on 28 November 2004.

3. Reference could be made here to the delegation of Bosnia and Herzegovina following the elections on 1 October 2006 and to the delegation of Turkey following the elections on 3 November 2002.

2.8. Agenda of the Assembly, order of business and orders of the day

49. Differently from most of the comparable international parliamentary institutions, the Assembly has not just an "agenda" but also an "order of business" and "orders of the day". This may lead to unnecessary complication (see, for example, Rule 25.6. according to which both the agenda and the draft order of business have to be communicated to members) and/or to confusion of new Assembly members. The special situation is probably due to the fact that during its first session the Assembly did not have the facility to decide alone on its agenda and that until 1999-2000 the Assembly had a "register" listing official Assembly documents. Only questions on the Assembly's register could then be placed on the draft agenda. The rapporteur proposes therefore to simplify the procedure by abandoning the functions currently attributed in the rules to the "order of business" and the "orders of the day". At the same time, the current notion of "agenda" should be enlarged to also include the present functions of the order of business.

50. This requires the following rule changes which are proposed in the draft resolution contained in this report:

– everywhere in the rules and the complementary texts replace "order of business" with "agenda";

– delete Rule 32 and the words "orders of the day" in Rules 35.7 and 41.1;

– review, where appropriate, the use of the current word "agenda" and adapt the corresponding provisions (for example, Rules 50.1 and 52.1).

51. It is understood that the first version of the draft agenda will be prepared on the basis of a list of reports already approved by committees but not yet debated and of reports to be approved in time for a part-session.

2.9. Moving of procedural motions

52. Due to the different wording of the last sentence of Rule 37.1 in the English ("none of these motions may be moved more than once during an item of business") and French editions of the rules (direct translation: "Each of these procedural motions can only be moved once during the same debate") different interpretations were given to this provision. The last Assembly President allowed for such a motion both during the opening sitting when the draft order of business is adopted and, if rejected, also when the report comes up for debate.

53. The rapporteur proposes to replace Rule 37.1.*d* with the following: "to move reference of the report back to committee either during the opening sitting when the draft agenda is adopted, or when the report is debated anytime before the vote on the whole of any text begins".

54. Following the Assembly's debate on 25 June 2007 it has been proposed, during the meeting of the Committee on Rules of Procedure and Immunities on 27 June, that procedural motions, except requests for reference back to committee, should be in order only if notice has been given in writing to the President before the end of the previous sitting or, in the case of the first sitting of a part-session, two hours before the start of the sitting. This should be included in a new sentence to be added to Rule 37.1.

2.10. Questions concerning the election/re-election of chairpersons and vice-chairpersons of Assembly committees, including their term of office

2.10.1. Election of chairpersons

55. In connection with the report by Mr Gross on improving the participation of members in Assembly plenary sessions and committee meetings (Doc. 11295) it has been suggested to change the current system of appointing committee chairs and vice-chairs. However, no formal proposal was then submitted to the Assembly. Under the new scheme proposed in the draft resolution included in this report, the political groups would in future only determine the committees which should be chaired by their members but not decide which persons would be chairs and vice-chairs. This would be left to the committees themselves, who are in the best position to judge which of their members would be a capable committee (vice-)chair. This new procedure would also be more democratic and open. If, for instance it had been agreed by the groups that committee A would be chaired by a member of the Socialist Group, only committee members belonging to this group could be valid candidates.

56. The rapporteur would also like to observe that under the existing system the presence of committee vice-chairpersons in the meetings of their committees is not always as it should be. Even at the Committee on Rules of Procedure and Immunities, in the absence of all vice-chairpersons it had happened that an ad hoc

chairperson had to be designated on the rare occasions when the chairperson was prevented from attending due to simultaneous obligations. Furthermore, in the view of the rapporteur, under the current system political groups do not always know if the members they propose for committee chairships really have the potential required. This consideration applies a fortiori to the designation of committee vice-chairpersons. If the new proposals were adopted, committees could simply not re-elect those chairpersons or vice-chairpersons who do not attend enough meetings and who are not sufficiently qualified.

2.10.2. Conditions for the eligibility and re-eligibility of committee chairs and vice-chairs

57. One political group of the Assembly has proposed that Rules 45.3 and 45.7 concerning eligibility and re-eligibility for the posts of committee chair and vice-chair should be made more flexible. This should allow for the election of qualified chairs and vice-chairs, improve gender balance, facilitate appointments by political groups and promote participation in committee work. In particular, alternates should be able to be candidates for posts of vice-chairs of committees. Furthermore, there should no longer be a requirement for candidates to have been full members or alternates of the committee concerned for at least one year. The rapporteur points out that members who have not been a member of a committee for at least one year can hardly be regarded as capable of leading a committee and understanding its remit.

2.10.3. Exclusion of simultaneous positions as chair or vice-chair of more than one committee

58. Rule 45.4 is clear: no chair or vice-chair of a (general) committee may be chair or vice-chair of another (general) committee. Rule 48.1 stipulates that: “Except as otherwise provided in this rule, procedure in subcommittee shall follow that in committee”. In the absence of any specific provision in Rule 48 on simultaneous chairs of sub-committees, it results from a combination of Rules 48.1 and 45.4 that no sub-committee chair or vice-chair can be a chair or vice-chair of another sub-committee.

59. The question has been asked if the vice-chair of a subcommittee of committee A can be elected vice-chairperson of committee B. In 2001 the Committee on Rules of Procedure and Immunities considered that Rule 45.4 applies also to Assembly sub-committees (AS/Pro (2001) 7). In the framework of the preparation of this report, the committee again came out against the plurality of chairships. It proposes that Rule 45.4 should be modified so as to exclude that a chair or vice-chair of a committee or subcommittee may be chair or vice-chair of another Assembly committee or sub-committee. This should not apply to ad hoc committees and ad hoc sub-committees.

2.10.4. Term of office

60. At the meeting of the Committee on Rules of Procedure and Immunities on 14 September 2007 the proposal was made to reduce the term of office of committee chairpersons, which is currently three years (Rule 45.7).

61. Until 1979 (Resolution 684) there was no limitation of the term of office of committee chairpersons. Since that time it has been reduced to four years maximum for newly elected chairpersons. After further adaptations in 1985 (Resolution 852) the rule currently in force (limitation of chairships to three terms) was introduced in 1991 (Resolution 958). This change was essentially motivated by:

– the wish to ensure an increased rotation in committee chairships; and

– the need to take into account the expected Council of Europe enlargement.

62. Fixing the duration of committee chairships means regularly finding a compromise between two conflicting principles: the maintenance of some continuity in the action and work of committees and the need to achieve a rotation of chairships. The Assembly currently has 636 statutory members (Representatives and Substitutes). It is generally admitted that distributing functions in the Assembly such as chairships and rapporteurships to a larger number of members (see report by Mr Gross on improving the participation of members in Assembly plenary sessions and committee meetings (Doc. 11295)) would be appropriate.

63. The Committee on Rules of Procedure and Immunities concluded that a general reduction of the length of the term of office of committee chairpersons to two years would be useful to ensure a better involvement of competent and active members in the Assembly’s work. This would require:

– changing Rule 45.7 by replacing the possible re election for two further terms by re-election for one further term;

– specifying that this reduction would not be applicable to committee chairpersons elected before January 2008;

– maintaining the current provision according to which a chairperson elected in the course of a session for an incomplete term may be re-elected for an additional term.

64. Finally, it is proposed to extend the new provisions to committee vice-chairpersons. It is hoped that this would promote more active vice-chairships, as the absenteeism of vice-chairpersons at committee meetings is worrying: it would seem that some members regard being a vice-chairperson as an honour which does not imply special obligations. Therefore, committees should be allowed to replace absentee vice-chairpersons.

65. A recent motion for a resolution tabled by Mr Wodarg and others (Doc. 11122), which has been referred to the Committee on Rules of Procedure and Immunities with the instruction that it should be dealt with in the framework of this report, proposes that Rule 45.7 should specify that a committee chairperson may be re-elected for two further terms only subject to different arrangements among political groups. The rapporteur considers that, particularly if the new system of appointing committee chairs and vice-chairs outlined above was adopted by the Assembly, the current wording of Rule 45.7 is sufficiently flexible to respond to this concern.

2.11. Streamlining of the procedure for examining amendments

66. In connection with the report on improving the participation of members in Assembly plenary sessions and committee meetings the Committee on Rules of Procedure and Immunities has examined several proposals with a view to streamlining the procedure for the examination of amendments in committee and in plenary. However, no conclusions were adopted. Further suggestions were examined during the preparatory work for this report. Bearing in mind the position taken by members of the Committee on Rules of Procedure and Immunities and discussions with other Assembly members, it is proposed that:

– before the first amendment is called the Assembly should be able, on a (procedural) motion of the President of the Assembly or any member, to decide that only the rapporteur or the committee chairperson should speak on amendments; on any such motion only the mover, one speaker against and the chairperson of the committee concerned should be heard;

– following a proposal presented by the chairperson of the committee seized for report, and if no member objects, amendments which have been unanimously approved by the committee shall be declared as adopted by the Assembly.

67. The rapporteur had also proposed that a short (maximum 30 words) written argument in favour of an amendment should be allowed as this would make it unnecessary for the proposer to defend an amendment in the plenary. However, the committee expressed itself against this idea.

68. Finally, it is recalled that in the late 1950s and 1960s, when many or very important amendments were tabled on a draft text and the discussion of these was scheduled at the beginning of a part-session, the committee concerned has occasionally withdrawn the text and instead submitted a new draft embodying the sense of the amendments for debate at the end of the part-session (see, for example, *Official Report*, 1963, pp. 565-568).

2.12. External relations of the Assembly (Resolution 1506 (2006))

2.12.1. General

69. On 26 June 2006 the Assembly adopted Resolution 1506 on the external relations of the Council of Europe. It deals with possible changes to special guest status (Rule 59), granting more rights to observers (Rule 60) and the possible creation of a specific committee (or subcommittee) to follow international developments and make proposals for coherent and effective external action. On 2 October 2006 the Bureau, on the basis of Document 11000, referred these issues to the Committee on Rules of Procedure and Immunities to be taken into account in this report.

2.12.2. Special guest status with the Assembly

70. In its Resolution 1506 (2006) the Assembly considered, *inter alia*, that the provisions relating to special guest status (Rule 59) should be amended to extend eligibility for this status to parliaments of non-European states engaged in democratic reforms.

71. When special guest status was created in 1989 (Resolutions 917 and 920 (1989)), observer status with the Assembly (then Rule 55) was limited to "official representatives of democratic European non-member states, appointed with the approval of their Parliament". The main differences between special guest status and observer status were:

– special guest status was essentially devised for parliaments of central and eastern European countries and it constituted the first step of the rapprochement between eastern and western European countries;

– it stipulated a procedure for presentation and examination of credentials;

– the conditions for granting this status were more precise but less far-reaching than those for observer status;

– the number of seats of special guests was higher than that of observers;

– states whose parliaments were candidates for special guest status had clear prospects for becoming Council of Europe member states, when able to fulfil the accession conditions.

However, there was no difference in the rights and prerogatives of special guests and observers (see AS/Pro (42) 4, p. 2).

2.12.3. Usefulness of adapting special guest status to new needs

72. In 2003 the Bureau of the Assembly reviewed the guidelines governing the external relations of the Assembly and defined, *inter alia*, criteria for co-operation with parliaments of non-European states (see Doc. 9835, Appendix 3, reproduced in pp. 174 to 230 of the Assembly's Rules of Procedure, 2006 edition). Concerning the prospects for special guest status (Rule 59) the Bureau then considered that it could be kept in principle after the accession by Monaco and Belarus, but not be used in practice. Depending on the future status of Kosovo, Rule 59 may become relevant. Moreover, in the Assembly's debate on external relations on 26 June 2006, Mr Iwiński, member of the Assembly, said that the parliament of Kazakhstan should also be eligible for special guest status as 4% of that country's territory lies within Europe and as it has participated in a unique co-operation with the Assembly since 2000.

73. The rapporteur considers that at least as long as there are potential candidate parliaments for special guest status it would not be appropriate to consider opening it up to parliaments of non-European states. For eighteen years special guest status has very much been associated with the first steps towards membership of the Council of Europe and with central and eastern European countries, although the Parliament of Monaco enjoyed the status for some months in 2004. Any major change of Rule 59 at this stage could create confusion.

2.12.4. Observer status with the Assembly

74. Furthermore, Resolution 1506 (2006) proposes the review of Rule 60 of the Rules of Procedure related to observer status, so as to enhance the role played by observers and to allow their better involvement in activities of the Assembly and its committees by, *inter alia*, granting to members of observer delegations the following rights:

– to table and sign motions for recommendations and resolutions;

– to be appointed as observer members of general and ad hoc committees;

– to participate in election observation missions;

– to become members of political groups.

75. Following changes concerning observer status with the Assembly in 1996-97 and in 1999 (adoption of new Rules of Procedure), Rule 60 is now worded as follows:

> *"The Assembly may, on the proposal of the Bureau, grant observer status to national parliaments of non-member states of the Council of Europe which meet the conditions set out in paragraph 1 of statutory Resolution (93) 26 of the Committee of Ministers on observer status". This paragraph stipulates that: "Any state willing to accept the principles of democracy, the rule of law and the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and wishing to co-operate with the Council of Europe …".*

76. In the 1990s, proposals were made to increase the rights of special guests and also to ensure a better involvement of participants from parliaments of non-member countries in Organisation for Economic Co-operation and Development (OECD) debates. Then, as now, it is difficult to improve the situation of delegations of non-member countries having a special status in Assembly debates,[4] mainly because of time constraints. Furthermore, for institutional reasons it appears not possible to allow observers to vote (on draft texts, for example), to table amendments or to become a rapporteur. This was also the Assembly's position in the debate on external relations on 26 June 2006. At committee level observers could be given more possibilities to speak and (while not voting) be encouraged to express their position on amendments or draft texts. During the Assembly's debate on external relations (26 June 2006) an observer from Canada, Mrs Lalonde, said that: "when in the committees we need to have our proposed amendments to be taken into account we request other delegations to assume and uphold them".

77. Furthermore, nothing prevents observer delegations, subject to Rule 47.6, from being represented by the same member(s) at the meetings of specific committees and ad hoc committees. It is recalled that in past Assembly lists the membership of general committees included a section with observers appointed to specific committees.

78. Members of observer delegations should be able to sign motions for resolutions or recommendations and written declarations. However, they should not be taken into account for the number of signatures required. Furthermore, in special cases political groups may propose to the Bureau the appointment of members of observer delegations to assist ad hoc committees on the observation of elections. This should be included at the next occasion in the guidelines on the observation of elections (p. 232 of the Assembly's Rules of Procedure, 2006 edition). Generally, members of observer delegations should be able to participate in the work of political groups according to the conditions established by them.

2.12.5. Possible creation of a new status for non-member states

79. According to Resolution 1506 it would be useful to consider the establishment of a new status for non-member states (possibly to be called "partners for democracy") that wish to co-operate with the Council of Europe in order to benefit from its experience in democracy building and possibly from its legal instruments and machinery but which are not yet in a position to guarantee full compliance with the Council of Europe's principles.

80. As this proposal is addressed in the first place to the Council of Europe, the rapporteur does not consider it necessary to comment on any procedural implications. He wishes to recall however, that in addition to Resolution 1506 (2006), the issue of a new status has already been discussed in 2000 by the Committee of Ministers (Italian initiative for the creation of a co-operation status, not followed-up) and by the Bureau of the Assembly (establishment of an association status with the Council of Europe, report by Mr Gross to the Bureau of the Assembly). The Bureau then had favoured a pragmatic approach and agreed to make full use of the existing possibilities to associate parliaments of non-member states with its activities (see AS/Pro (2000)3 and paragraphs 50 and 51 of AS/Pro (2007) 11).

2.12.6. Possible creation of a specific committee (or sub-committee)

81. In its Resolution 1506 (2006) the Assembly believed that it needed a specific committee (or sub-committee) that would, on the basis of clearly defined terms of reference, closely follow international developments and make proposals for coherent and effective external action.

82. Currently, the Assembly's Political Affairs Committee has appointed a Sub-Committee on External Relations which has met five times in 2006 and, to date, four times in 2007. The sub-committee has examined the following subjects: external relations of the Council of Europe; relations with Morocco; relations with Kazakhstan; participation in the General Assembly of the United Nations; participation in conferences; joint meet- meetings with a committee of the Inter-Parliamentary Assembly of the Commonwealth of Independent States (CIS) and the Political Committee of the Assembly of the Western European Union (WEU).

4. It is recalled that in the past the only means found to improve the participation of delegations from OECD countries, non-members of the Council of Europe, in the relevant debates of the Assembly (and discussions in the Committee on Economic Affairs and Development) was to introduce a special type of debate, the enlarged debates on OECD activities and special, enlarged committee meetings. At a certain moment (1990) the Assembly also envisaged creating special debates on the Organization for Security and Co-operation in Europe/Conference for Security and Co-operation in Europe (OSCE/CSCE).

83. In the present juncture of the Council of Europe which is marked by zero growth in real terms and a focusing on the Council's core activities, the creation of a new Assembly committee, even for important tasks, could be interpreted as a wrong signal. Furthermore, with respect to the setting-up of a new sub-committee, the existing structures should be fully exploited before the creation of a new body.

2.12.7. Appointment of observer delegations to the Assembly

84. The national parliaments concerned are not obliged to submit credentials to the President of the Assembly (Rule 60.2). The current practice simply requires that observer delegations to the Assembly are appointed before each part-session and that they reflect the various currents of opinion within their parliaments. Therefore, the Assembly has no right to check the said delegations. Moreover, the composition of these delegations may vary from one part-session to another. The Assembly's desire to have more stability among the representation of the national parliaments of the three countries concerned is fully understandable. Consequently, Rule 60.2 should be amended in order to request from the parliaments of the observer states that they submit a list of members for the whole duration of the ordinary session, as do special guest countries. This should possibly be done not less than one week before the opening of the session, and the Assembly could take note of it at the opening of the January part-session.

85. Furthermore, the Committee on Rules of Procedure and Immunities found it appropriate to simplify the appointment by the parliaments with observer status of stable delegations for the whole parliamentary year and consequently to enlarge the representation of both the Canadian Parliament and the Mexican Parliament, in allowing the appointment of Substitutes to Representatives.[5] To this end the draft resolution proposes to amend paragraphs 4.ii of Assembly Resolutions 1125 (1997) and 1203 (1999) so that the Canadian and Mexican observers could appoint six Substitutes each.

2.13. Some aspects of the relations between the Assembly and the Committee of Ministers

86. On 2 and 6 October 2006 the Bureau referred the following issues to the Committee on Rules of Procedure and Immunities for consideration in this report: composition of the Assembly's delegation on the Joint Committee and spontaneous questions to the Chair of the Committee of Ministers when addressing the Assembly.

2.13.1. Nature and composition of the Joint Committee

87. The Joint Committee, composed of members of the Committee of Ministers and the Assembly, was set up in 1950 after concurring decisions had been taken by the Committee of Ministers (Resolution (51) 20) and the Assembly (26 August 1950). This initiative aimed mainly to improve (by discussing outstanding difficulties) and strengthen relations between these two statutory organs in the interests of the Council of Europe. The Assembly had originally regarded the Joint Committee as the embryo of a European executive (see AS/Bur (1955) PV 12, item 6), but in the end had to adopt a less ambitious point of view. Initially the Joint Committee, chaired by the President of the Assembly and governed since 1951 by statutory Resolution (51) 30 C, had a very limited composition, namely seven representatives of the Committee of Ministers and seven representatives nominated by the Standing Committee of the Assembly (see Committee of Ministers Resolution (50) 6).

The evolution of the Joint Committee

88. Following proposals from the Assembly, the Committee of Ministers agreed in 1957 and 1963 to increase the number of representatives on the Joint Committee bringing it to one for each member state with an equal number of Assembly members. With the continuous enlargement of the Council of Europe the size of the Joint Committee also increased considerably. Until 2002, one yearly meeting of the Joint Committee (called the "Colloquy") was held at ministerial level. According to the version of Rule 55 of the Assembly's Rules of Procedure which was in force until 1995, the delegation of the Assembly on the Joint Committee was composed of members appointed by the Standing Committee from among its members. The Standing Committee also appointed alternates upon whom the President could call to replace representatives unable to attend a meeting. Since the 1980s, however, the Assembly's delegation on the Joint Committee was appointed more on an ad hoc basis; the President was empowered to convene the chairs of national delegations (or their substitutes) and, depending on the subjects chosen for the Joint Committee, the rapporteur and members of the Assembly committee(s) concerned. Following changes in 1995 and

5. This has been the case for the Israeli observer delegation since 1973.

1999-2000 (see Resolution 1061 (1995), Doc. 7262, and Resolution 1202 (1999)), Rule 55.2 specifies that the Assembly's representatives on the Joint Committee are the members of the Bureau and one representative of each parliamentary delegation not represented on the Bureau. Furthermore, the President may, in the light of the Joint Committee's agenda, co-opt members, in particular rapporteurs. This change was motivated by:

– the need to ensure that all member states are represented in the Assembly delegation;

– the need to limit the number of members on the Joint Committee;

– the possibility for the President to co-opt members.

89. In 2004 the delegation of the Assembly to the Joint Committee was automatically increased (currently 63 members) as the chairpersons of Assembly committees became Bureau members.

90. The Committee on Rules of Procedure and Immunities did not consider it necessary to submit proposals concerning the Assembly's delegation to the Joint Committee.

Observers, special guests and the Joint Committee

91. Currently, observers and special guests may not attend meetings of the Joint Committee (Rule 47.6). However, the rapporteur notes that observers to the Council of Europe attend ministerial sessions and, since 2006, meetings of the Ministers' Deputies and that observers to the Assembly attend and speak in plenary sessions of the Assembly. In order to keep the balance between the delegations of the Committee of Ministers and the Assembly, it could be envisaged to allow both types of observers (and special guests) to be represented in meetings of the Joint Committee. This would presuppose the agreement of both the Committee of Ministers and the Bureau of the Assembly. The Committee on Rules of Procedure and Immunities did not follow up this idea. This matter may be subject to a further discussion in the framework of the Joint Committee.

2.13.2. Spontaneous questions to the Chairperson of the Committee of Ministers during Assembly part-sessions

92. Under Rule 58 paragraph 2 of the Assembly's Rules of Procedure, Assembly members may, following the presentation of the report of the Committee of Ministers on its activities, ask questions for oral answer by the Chairperson-in-Office of the Committee of Ministers. These questions must be tabled in writing within a time limit. During the January and April part-sessions 2007 and the April part-session 2006 the deadline was between 21 and 25 hours before the statement of the minister, whereas it was much longer in January and June 2006 (between 42 and 44 hours). In the past the Assembly has tried on several occasions to make the question and answer session with the Chairperson-in-Office more lively and spontaneous.

93. After having been discussed in 1994 in the Committee on Rules of Procedure and Immunities (AS/Pro (1994) 2 rev.) and in the Bureau, this issue was raised again in connection with reform proposals in 2006. When he addressed the Assembly in October 2006, the Chairman-in-Office of the Committee of Ministers, the Russian Minister for Foreign Affairs (Mr Lavrov), expressed himself in favour of spontaneous questions. The Bureau of the Assembly also pronounced itself in favour of such a reform, as it was important to make the appearance of Chairpersons-in-Office before the Assembly livelier than was the case so far. On 25 January 2007 the Joint Committee discussed this issue and the following points were made:

– there is no opposition to this possibility in principle, but it is also important for the Chairperson-in-Office of the Committee of Ministers to give substantive and fully accurate replies to complicated and detailed questions by members;

– it is not certain that chairpersons would be able to provide such answers on the spot; furthermore, the chairperson speaks generally on behalf of all member states, which makes replies even more difficult;

– members of the Assembly may be encouraged to ask general and political questions to the chairpersons; more technical questions could be asked separately rather than taking up precious Assembly time;

– even the Minister for Foreign Affairs of Russia (Mr Lavrov) was asked very detailed questions to which he did not have a ready reply.

In concluding the discussion the President suggested that this matter be returned to on a future occasion.

94. The aforementioned document of the Committee on Rules of Procedure and Immunities (AS/Pro 1994) 2 rev.) included, *inter alia*, the following proposals:

– subject to the consent of the respective Chair of the Committee of Ministers, the final part (this would have to be defined) of a question and answer session with him/her could be reserved for spontaneous questions which are not technical;

– spontaneous supplementary questions to the Chair in his/her capacity as Minister for Foreign Affairs should only be authorised in so far as his/her statement contains passages in which he/she has spoken in that capacity.

95. The committee suggests adding at the end of Rule 58.2 the following new sentence: “Subject to the consent of the Chairperson of the Committee of Ministers, the last fifteen minutes of the questions for oral answer may be reserved for spontaneous questions.”

3. Other procedural questions

3.1. Making the meetings of the Standing Committee more attractive

96. Some aspects of the functioning of the Standing Committee give rise to discontent, for example the limited debates on reports and the rapid consideration of texts submitted for adoption. Furthermore it has been proposed to allow one general committee to meet in connection with the Standing Committee.

97. Recent experience has shown that current affairs debates in the Standing Committee can make its meetings livelier. Currently the holding of such debates in the Standing Committee is not explicitly mentioned in the Rules of Procedure. The rapporteur proposes to adapt Rule 52 accordingly.

3.2. Motions for recommendations and resolutions – reference to committee

98. In 2005-06 the methods for examining these motions and taking action on them at Bureau level were changed. They are now broadly accepted. However, one problem remains: the absence of an explicit provision in the rules stipulating how members may challenge Bureau decisions relating to these motions in the plenary (or in the Standing Committee). To this end the Committee on Rules of Procedure and Immunities presents the following proposals:

– all decisions of the Bureau concerning motions and the other documents mentioned in Rule 24.1 should become available to members through the progress report of the Bureau and the Standing Committee or – for the sittings on the last days of part-sessions and for meetings of the Standing Committee, where these decisions are ratified – in a separate document;

– any member may move a motion to change such a Bureau decision which should be adopted by simple majority; on any such motion only the mover, one speaker against and the rapporteur of the Bureau should be heard.

99. To facilitate action to be taken on important documents (for example, proposals or communications from national parliaments) which the President deems to be official documents, it is proposed to include the relevant Rule 22.*k* also in Rule 24.1, which deals with references to committees.

3.3. Distribution and adoption of the minutes of proceedings

100. The application of this rule raises two questions of minor importance. The wording of Rule 29.1 gives the impression that in general the minutes of proceedings of a sitting shall be distributed before the opening of the following sitting. However, this is not possible in the majority of cases, mainly because of insufficient time. According to Rule 29.4 the minutes of proceedings of the last sitting of a session shall be submitted to the Standing Committee for approval. However, it happens sometimes (for instance in 2006 and in 2004) that the Standing Committee does not meet between all four part-sessions of a year. In those cases adoption of the minutes by the plenary would be quicker.

101. The Committee on Rules of Procedure and Immunities considers that the wording of both provisions is sufficiently flexible to cope with the situation.

3.4. Reports of debates

102. The preparation and publication of reports of debates is being revised. It is therefore proposed to replace the two sentences of current Rule 30.1 with the following:

> *"An official report of the debates of each part-session shall be issued. A provisional report of each sitting shall be distributed as soon as possible".*

3.5. Deadline for distribution of reports before debate during a part-session

103. This deadline (see Rule 33.2) is two weeks before the opening of the part-session. A footnote to this rule stipulates that if the Assembly is not in session the date of distribution shall be that of the postmark.

104. All documents are put on the Internet and Extranet and are e-mailed to members. Therefore, the first sentence of the footnote should be modified to read as follows: "If the Assembly is not in session, the date of distribution shall be the moment when documents are being made available to members in their paper or electronic versions."

105. If for political or other reasons the rapid preparation of a report for presentation to a part-session becomes necessary, and if no urgent procedure has been requested, the Bureau may grant exceptions from the deadline fixed in Rule 33.2. Although such justified Bureau decisions have not been challenged in plenary in the past, this would be admissible and postponement of the debate could not be prevented even by a majority decision. Indeed, Rule 33.2, third sentence stipulates: "If a report is not distributed within the time limit laid down, and at least 10 Representatives or Substitutes belonging to at least five national delegations so request when the draft order of business is considered, the debate shall be postponed until a later part-session unless urgent procedure has already been requested with respect to that report."

106. There could be major reasons to allow for the discussion of a report even if the time limit has not been respected. That is why the rapporteur proposes that, by a two-thirds majority decision, the Assembly should be able to overrule any objections by ten or more Representatives or Substitutes belonging to at least five delegations.

3.6. Deadline for making committee documents available for members

107. According to Rule 46.5 of the Rules of Procedure, except during part-sessions documents relating to items on the agenda of a committee meeting shall be despatched to members at least one week before the date of that meeting. If they are not and if five or more members object, the item(s) concerned shall be postponed to a later meeting. As there is no exception, this clause may have major consequences in the case of important reports on topical issues which for one reason or another could not be distributed on time (see report on the situation in Kosovo of the Political Affairs Committee in September 2006). The rapporteur proposes that by a two-thirds majority decision a committee should be able to overrule the objection made by five or more members.

3.7. Deadline for sub-amendments

108. Under Rule 34.5 sub-amendments must be tabled two hours before the opening of the sitting at which the debate is to begin. This has always been interpreted literally, that is, for a debate starting at 10 a.m. the deadline is 8 a.m. The last President of the Assembly, Peter Schieder, has suggested that the deadline be aligned with the deadline for the list of speakers, that is, one hour before the scheduled end of the sitting preceding that in which the debate begins. The Committee on Rules of Procedure and Immunities proposes that Rule 34.5 be modified accordingly.

3.8. Convocation of committee meetings – need to respect deadlines

109. Following a recent meeting of an Assembly committee, the question arose as to whether there were any provisions (for example, Rule 46.5 *mutatis mutandis*) concerning deadlines to be respected for convening meetings. The rapporteur proposes to add the following sentence to Rule 47.1:

> *"Except during part-sessions, the convocation to the meeting shall be sent to members at least seven days before the meeting."*

3.9. Updating of committee reports tabled

110. Due to limited debating time or other reasons, committee reports are sometimes not debated until several months after they have been approved, tabled with the Table Office and published as an Assembly document. This has often had as a consequence that the information contained in such reports is no longer up-to-date when the debate takes place. On several occasions in the past the committee concerned has prepared an addendum to the report. The rapporteur proposes that this possibility be mentioned at the end of Rule 49.5.

4. Complementary texts to the rules of procedure

4.1. Speaking time of rapporteurs and rapporteurs for opinion

111. Other than in the committees, the plenary in fact does not allow a real debate. It is a succession of, often repetitive, monologues from the floor, with the rapporteur getting four minutes to answer the points made by the members. In a normal parliamentary debate the rapporteur would get more time to answer the points made from the floor. Even better, the members would get a chance to respond to the rapporteur's answers, giving the rapporteur a chance to answer them anew.

112. Therefore, and to make debates more lively, the introductory speech of rapporteurs should be reduced. Members already have at their disposal the report and the summary it contains. The rapporteur submitted different proposals to modify the current provisions. The committee finally agreed that:

– rapporteurs shall have a global time of thirteen minutes to present the report and to reply to the debate;

– rapporteurs may, after the first round of speakers on behalf of political groups, request the floor for a speaking time of up to four minutes to reply, which time should be deducted from the time of reply at the end of the debate.

Rapporteurs for opinion should have three minutes to present their opinions or to reply to the debate.

113. The Bureau is therefore invited to consider amending accordingly the "additional provisions relating to Assembly debates", section iv (speaking time).

4.2. Guidelines for questions to guest speakers

114. These guidelines (section vi of the additional provisions relating to Assembly debates, see p. 102 of the Rules of Procedure, 2006 edition) should be adapted to current practice and be completed as follows: replace paragraph 4 with the following text: "Spontaneous questions may be put to guest speakers. Questions may be restricted to political groups' spokespersons. After speeches of heads of state or government, if time permits the political groups' spokespersons may make short statements."

4.3. Committee meetings elsewhere than in Strasbourg or Paris; conditions for awarding medals

115. The rapporteur proposes that on an appropriate occasion the ruling on meetings of committees and subcommittees of the Assembly elsewhere than in Strasbourg or Paris should be brought up to date by the Bureau. Furthermore, the ruling on the conditions for awarding medals or other honours to former Assembly members (see Doc. 3292 and additional Bureau decision of 1979) should be included in the next edition of the Assembly's Rules of Procedure.

5. Proposals from committee members

116. At the meeting of the Committee on Rules of Procedure and Immunities on 6 December 2006 a member raised a question concerning the possibility for Assembly members who are not registered with a political group to form a group of non-registered members. It is recalled that Rule 31 of the European Parliament's Rules of Procedure deals with non-registered (non-attached) members. They are provided with a secretariat and the Bureau of the European Parliament has determined the status and parliamentary rights of these members and laid down rules concerning administrative facilities and the reimbursement of secretariat expenses. Also in the parliaments of some member states nonregistered members have the right to group themselves together. The Committee on Rules of Procedure and Immunities did not follow up this matter.

6. Final remarks

117. This report and the proposals contained therein are the results of a thorough and careful consideration by the Committee on Rules of Procedure and Immunities which devoted several meetings to their discussion. Members of the Assembly also had the opportunity to participate in these meetings and to submit their views. The rapporteur himself, who initiated some further far-reaching proposals, took the views of chairpersons of national delegations and of political groups into account. The committee has unanimously approved the draft resolution included in this report and agreed to present it to the Standing Committee in Bratislava (23 November 2007).

118. Any rule changes should enter into force on the first day of the January 2008 part-session (21 January 2008). However, the proposed change of Rule 45.7 shall only apply to committee chairpersons and vice-chair elected as from the January 2008 part-session.

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Reporting committee: Committee on Rules of Procedure and Immunities.

Reference to committee: Doc. 10915 and Reference No. 3242 of 26 June 2006; Resolution 1506 and Reference No. 3254 of 30 June 2006; Doc. 11000 and Reference No. 3271 of 2 October 2006; Doc. 11122 and Reference No. 3309 of 16 March 2007.

Draft resolution unanimously adopted by the committee on 3 October 2007.

Members of the committee: Mr Andreas **Gross** (Chair), Mr Andrea Manzella (1st Vice-Chair) (alternate: Mr Andrea **Rigoni**), Mrs Maria **Postoico** (2nd Vice-Chair), Mr Erol Aslan **Cebeci** (3rd Vice-Chair), Mr Miloljub Albijanić, Mr Lars Barfoed, Mr Ivan **Brajović**, Mrs Anne **Brasseur**, Mr Jonas Čekuolis, Mrs Helen d'Amato, Mr Miljenko Dorić, Mr Vanghel Dule, Mr Herbert Frankenhauser, Mr John **Greenway**, Mr Attila Gruber, Mr Sefer Halilović, Mr Gerd **Höfer**, Mr Serhiy Holovaty, Mr Ali Huseynov (alternate: Mr Samad **Seyidov**), Mr Luchezar Ivanov, Mr Morgan Johansson, Mr Armand Jung (alternate: Mr Jean-Claude **Mignon**), Mr Erik **Jurgens**, Mrs Mojca Kucler-Dolinar, Mrs Irine Kurdadzé, Mr Jan Filip Libicki, Mr Noël Mamère (alternate: Mr Michel **Dreyfus-Schmidt**), Mr Alan **Meale**, Mr Miloš **Melčák**, Mrs Ana Caterina **Mendonça**, Mr Peter Mitterer, Mr Nikolaos Nikolopoulos, Mrs Kristiina Ojuland, Mr Alexey Ostrovsky (alternate: Mr Valeriy **Fedorov**), Ms Eli Sollied Øveraas, Mr Julio Padilla, Mr Christos Pourgourides, Mr Armen Rustamyan, Mr Ellert B. Schram, Mr Yuri **Sharandin**, Mrs Tuulikki Ukkola, Mr Vasile Ungureanu, Mr Giuseppe Valentino (alternate: Mrs Sabina **Siniscalchi**), Mr Karim **Van Overmeire**, Mr G. V. Wright, Mr Blagoj Zasov.

NB: The names of the members who took part in the meeting are printed in bold.

See Standing Committee, 23 November 2007 (adoption of the resolution, as amended); and Resolution 1584.